



LICENSING SUB COMMITTEE

Notice of a Meeting, to be held in the Customer Contact Centre Meeting Room - Ashford Borough Council on Wednesday, 26th February, 2020 at 2.00 pm.

The Members of the Licensing Sub Committee are:-

Cllr. Burgess, Mulholland, Wright.

Cllr. Feacey (Reserve)

Agenda

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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 - 32

To approve the Minutes of the Meetings of the Licensing Sub-Committee held on 28th January 2020 and 7th February 2020.
5. **Procedure Note for Licensing Hearing** 33 - 36
6. **Exclusion of the Public**

That pursuant to Section 100A(4) of the Local Government Act 1972 as amended the public be excluded from the meeting during consideration of the following item 'Review of a private hire and hackney carriage driver's licence' as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of

exempt information hereinafter specified by reference to paragraphs 1 & 2 of Part 1 of Schedule 12A of the Act.

7. **Determination of Application for a Private Hire Drivers Licence** 37 - 56

14 Feb 2020

Queries concerning this agenda? Please contact Kirsty Morland Tel: 01233 330499
Email: kirsty.morland@ashford.gov.uk
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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
- (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 **28th January 2020 at 2pm.**

Present:

Cllr. Rogers (Chairman);

Cllrs. Burgess, Ledger

Cllr. Shorter (Reserve)

Also Present:

Applicant, Applicants Representative.
Home Office Representative.
Police Representative.

Environmental Protection & Licensing Team Leader, Licensing Officer, Principal Litigator, Member Services Officer.

274 Election of Chairman

Resolved:

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

275 Minutes

Resolved:

That the Minutes of the Meetings of this Sub-Committee held on 4th October 2019 be approved and confirmed as correct records.

276 Exclusion of the Public

Resolved:

That pursuant to Section 100A(4) of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item, namely 'Application for a premises licence – The Codfather, 15 High Street, Ashford' as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraphs 4 and 7 of Schedule 12A of the Act, where in the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

277 Application for a Premises Licence – The Godfather, 15 High Street, Ashford.

The Councillors and Officers present were introduced. The Chairman welcomed all present and explained the procedure to be followed. The Sub-Committee confirmed that they had received and read the agenda papers.

The Licensing Officer had submitted a report which outlined the case. She drew attention to this and the options open to the Sub-Committee in the making of their decision.

The Applicant and the Applicant's Representative then put their case to the Sub-Committee.

The Home Office Representative put his case to the Sub-Committee.

The Police Representative put his case to the Sub-Committee.

The Applicant, Applicant's Representative, Home Office representative and Police representative then answered questions from Councillors.

The Committee then retired to make its decision.

On the Committee's return, the Chairman read out the 'Decision and Reasoning's Statement' that had been prepared by the Sub-Committee. A copy of this document was provided to the Applicant, Applicant's Representative, Home Office Representative and Police Representative at the meeting. Further, it was advised that a copy of this would also be sent to all parties after the meeting, along with the Minutes and a Decision Letter.

Resolved:

That the license not be granted.

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **7th February 2020**.

Present:

Cllr. Rogers (Chairman);

Cllrs. Buchanan, L. Suddards.

Also Present:

Mr Delaney – Applicant

Mrs Barrett – Applicant

Mr Marshall – Objector

Mr Barkel – Objector

Mrs Lewis – Objector

Mrs Walton – Objector

Mrs Beeching - Objector.

Licensing Officer (JP), Licensing Officer (AS), Environmental Protection & Licensing Team Leader, Principal Litigator, Member Services Officer.

The commencement of the meeting was delayed to allow for the Environmental Protection & Licensing Team Leader and Principal Litigator to discuss the validity of the application with the Applicant, further to additional emails and documents that had been received the previous evening and that morning, from those who had made representations.

294 Election of Chairman

Resolved:

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

295 Wittersham Sports Ground, Wittersham, Ashford – Application for a Club Premises Certificate

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

The Environmental Protection & Licensing Team Leader wished to make the Sub-Committee aware of detailed correspondence with a number of persons in relation to the validity of the application being considered. This correspondence, including that

received the previous evening and that morning had been reviewed. These matters had been considered by the Licensing and Legal Teams, and both were of the view that the application remained valid and should be processed in accordance with the Licensing Act. This correspondence had been lengthy and time-consuming and the concerns were summarised as follows:

- Whether the Company Secretary had the legal authority to bind the club as the signatory to the application – In terms of the Act, there was no requirement for evidence of authority to be submitted. The Council had not been approached by the Club or its Directors to state that the Company Secretary had acted without authority, and importantly no evidence had been provided demonstrating that the declaration made was false.
- That the extent of the club premises use did not extend to the wider sports field which was subject to a separate lease – to which it was confirmed the Licensing Act was not concerned with reference to land other than that subject to the application.
- That there were no formal rights of occupation for the Club – it was confirmed that the Licensing Act did not require a specific type of occupation, but only that the Club occupy the premises. It was understood that the leaseholder and the freeholder had formalised the occupation and use.
- That the premises have not been used by the Club – the Licensing Act did not require submission of evidence as part of the application, but required the submission of the relevant declaration. No evidence had been received to support the claim that the premises had not been used by the Club, and as the Licensing Authority they had previously acknowledged some Temporary Event Notices related to the premises.
- That an individual was not provided with information relating to the finances of the Club, and that therefore the Club was not operating in line with the arrangements on good faith – following investigation it appeared that said individual may not have been a member of the Club and therefore not subject to the Club arrangements for such matters. No evidence of membership had been provided.

The Environmental Protection & Licensing Team Leader requested if the Sub-Committee could confirm, that on hearing this information that they were satisfied with the information provided and would be happy to proceed with the hearing?

The Sub-Committee confirmed that they wished to proceed with the Hearing.

The Principal Litigator requested clarification on whether the matters raised in the email correspondence received the previous day and earlier that day had been addressed.

The Environmental Protection & Licensing Team Leader advised that all matters had been considered. The commencement of the meeting had been delayed to allow time for Officers to speak with the Applicant regarding concerns raised. He

confirmed that they had been shown information and documentation that supported the validity of the application.

Drawing attention to the matter for determination by the Sub-Committee, the Environmental Protection & Licensing Team Leader advised that the application was for a Club Premises Certificate (CPC) for the supply of alcohol at Wittersham Sports Ground, Poplar Road, Wittersham. A CPC varied to the usual premises licence in that it related to the supply of alcohol to club members and their bona fide guests. It was not a premises open to the general public and therefore couldn't act in a commercial manner such as a public house. In particular it should be noted that the general public could not simply walk into the premises and be served alcohol.

The application, apart from a minor correction resulting in the re-advertising of the application, had been made in the correct manner and was contained in Appendix A of the agenda papers. The location of the premises in relation to the surrounding vicinity was shown by a map and site photos contained in Appendices B and C respectively, and related to a village sports ground pavilion and an area directly outside included for the purposes of the consumption of alcohol. The premises were accessed from a reasonably sized B-Road that served as the main road through the village and had a modest car park. There were relatively close neighbours to the rear and one side of the pavilion but to the front and other side the neighbours were at a reasonable distance away. The application sought for the premises to be authorised to be; open to the public 08:00 to midnight each day; with the supply of alcohol between 12:00 and 23:00 each day and non-standard timings for Christmas and New Years Eve. No other licensable activities had been applied for. It was clarified that the timings were those which were applied for but not necessarily those that would be operated by the premises. In relation to the Licensing Act objectives, it was the Licensing Authority's responsibility to convert the information in the operating schedule of the application into conditions. Those conditions, and further conditions offered by the Applicant prior to the Hearing could be found in Appendix D to the agenda papers.

The Licensing Officer (JP) drew attention to the Operating Schedule (contained on page 31 of the agenda papers) and the aforementioned Appendix D. He highlighted to the Sub-Committee the conditions that had been agreed with the Applicant, and expanded upon these.

The Environmental Protection & Licensing Team Leader advised that a separate CPC had previously been operated at the premises for a number of years up until approximately two years ago. The authorised times for that CPC and the supply of alcohol were slightly longer at 10:00 to 23:00 with non-standard timings for Good Friday and Christmas Day. Therefore the standard timings on the application for determination represented shorter authorised hours in comparison. Due to the prior CPC at the premises, details of previously reported crime and disturbance both at the premises and wider sports ground were included in Appendix E to the agenda papers (Police reports) and Appendix F (Environmental Health and Licensing Authority). No representations had been received from any Responsible Authorities, such as Kent Police, the Home Office and Kent Fire and Rescue Service. 15 representations had been made by other Interested Parties, the details of which were contained in Appendix G to the agenda papers. The main concerns arising from the representations, that related to the Licensing Act objectives were:

- Potential for drug use
- General disorder at the premises
- Noise from patrons at the premises and when leaving
- Lighting associated with the operation of the CPC
- Additional vehicles, and increased irresponsible parking resulting from the grant of the CPC
- Littering arising from the grant of the CPC
- Potential for harm to children from:
 - Interaction between the provision of alcohol and use of the clubroom by children, thereby exposing children to unruly behaviour, foul language etc.
 - Accessibility to changing rooms.

A range of comments had been raised pertaining to matters that did not relate to the impact of the grant of the CPC on the Licensing Act objectives. These could not be taken into account at the Hearing, but for the purposes of clarity these included comments on:

- Competition with other licensed premises, whether existing, planned or proposed
- Existing issues that were unaffected by the grant of the CPC, for example parking during football matches, floodlighting used for sport, littering and a low kitchen sink (this last point was covered by the Health & Safety at Work Act)
- Usage rights between premises users, this was a matter for the sporting sections to take up with the Charity that held the lease to the land
- Noise from music and amplified sound, as no regulated entertainment had been applied for as part of the CPC

Of the representations received, four people had attended the Hearing to amplify their written representations. The Environmental Protection & Licensing Team Leader drew attention to the written representations within the agenda papers. Attendees were reminded that they could only amplify the details of their representation made within the 28 day consultation period and that no new issues nor evidence could be submitted without the advance permission of all parties. In conclusion, the Environmental Protection & Licensing Team Leader highlighted the options open to the Sub-Committee in the determination of the application before them.

The Principal Litigator on a point of clarification, confirmed to the Sub-Committee that it was a matter for them to have read the representations contained within the

report and that it was for them to decide as to the relevance of those to the promotion of the Licencing Objectives in this matter and that whilst there had been some helpful guidance in the form of the report (about the relevance of the representations), ultimately the decision was theirs and theirs alone.

The Chairman requested that those members of the public present identify themselves for the benefit of all those present.

Mr Delaney, the applicant, advised that he was the secretary for the Wittersham General Sports Club Trading Limited, he was also a Trustee of the Sports Club that owned the applicant company. He further introduced Mrs Barrett, who was a Director of the applicant company. He wished to start by providing the potted history of events of the last three years, so that the Sub-Committee could understand the basis of the application. At the AGM of the Charity in 2016 a resolution had been passed for the new committee to look into a social section to provide much needed funds to refurbish and maintain the clubs pavilion and grounds. The committee agreed to progress this matter with initially a refurbishment to the pavilion clubroom so as to provide a better environment for all, with further renovation planned once additional revenue had been raised. The clubroom was reopened in August 2016 but the operation of the social section was closed down five months later, in summary this had occurred due to the CPC held by the Football Club only benefiting the Football Club and its members. At that the time the sports club had additional sporting groups including, cricket and ladies stoolball. Discussions were commenced with the Council's Licensing Team and they were advised that a possible way forward would be to create an umbrella organisation which would allow the sections of the sports club to have the benefit of the CPC. The Charity Trustees over the past 18 months had been working to achieve this. They had reaffirmed with the Charity Commission the ability to operate a bar through a trading subsidiary of the Charity using eminent UK Charity Solicitors, Bates Wells Brathwaite, to develop an umbrella membership and seeking preapproval of the same from Ashford Borough Council Licensing. Additionally confirmation from the Landlord of their acceptance in this matter and a resource sharing agreement had been approved by all parties. With all these matters in place, the application for the CPC was submitted. What stood out to him from reading the objections as a main concern was an underlying tone, which was incorrect, that the premises would be operating as a pub from 08.00 to 24.00, there was a clear misunderstanding that required clarification. He clarified that the times of 08:00 to 24:00, related to when the premises would be open, and not the time when alcohol could be supplied as these hours took into account other activities that may occur at the premises earlier in the day. An example of this was the use of the changing rooms by 10K run participants. Operating as a pub was not in the mind of the applicant, they were a members club which was not open to the public. The flexibility was requested due to the nature of sporting activities that would take place at the premises. The timings requested were less than those on the CPC held by the Wittersham Football Club. Bar opening was likely to be seasonal with less opening times in the winter than the summer.

Turning to the four Licensing Objectives and the representations received which were outlined in the Environmental Protection & Licensing Team Leaders report, as contained within the agenda papers, Mr Delaney wished to drawn attention to those;

Crime & Disorder

- Unruly behaviour, burglaries and fights - of the 15 representations, 7 made reference to these matters. Mr Delaney advised that the potential for drug misuse was rife around all sporting activity and he understood that during an inspection in November 2016 that although drug traces were found, these were not of a significant level, however the Charity carried out the advice given by the Licensing Team by putting up signs about zero tolerance of drug usage which remained on the walls of the pavilion. All sporting sections were equally aware of the zero tolerance. Signage would be maintained and updated in accordance with Condition 4 of the Operating Schedule.
- Drink driving – drink aware signage would be displayed and would be followed through at point of sale, to ensure that alcohol was not served to individuals displaying signs of intoxication.
- Security of the premises - He believed that the premises were secure, however made references to Condition 3, should the CPC be granted, the CCTV system would be activated and operated in accordance with the new GDPR Regulations, for insurance and security purposes and as part of the child protection policy. The applicant had not been made aware of any reported disorder on the premises until Appendix E of the agenda papers was seen. Anti-social behaviour on the premises would not be tolerated, however they were unable to resolve individuals behaviour outside of the premises in terms of public urination except that they would as indicated in the additional conditions put up additional signage asking patrons to respect their neighbours and to keep noise to a minimum when quietly leaving the premises. He confirmed that they had offered conditions in connection with these matters.

Public Safety

- Children, fights and fire safety – 4 of the representations made reference to these issues. Mr Delaney confirmed that there was a valid fire certificate at the premises and was surprised that such an issue has been raised by a current trustee who was aware of its status. To resolve possible overcrowding in the premises and to ensure that alcohol was served to members and guests only they would be operating a card membership scheme with a guest book behind the bar for visiting teams, this was proposed as part of Conditions 1 & 2. Fights and reported disorder were addressed previously and he would address the use of the pavilion by children in due course.

Public Nuisance

- Noise, litter, parking, outside lighting, anti-social behaviour (including urination) and foul language – 10 of the representations made reference to these issues. Mr Delaney was of the opinion that these issues were more paramount when football matches/training were being played during the winter months. The parking and fence installation raised by Mr Marshall, the

nearest neighbour, in his representation was a matter for resolution by the Charity and its Landlord, he would, along with Mrs Barrett, as Trustees of the Charity ensure that this was fully progressed. They always sought to address concerns raised by neighbours. Mr Delaney felt that they had principally addressed the concerns within the Conditions.

Protection of Children from Harm

- Interaction of children and alcohol and the use of toilets – 4 of the representations addressed these as areas of concern. The provision of alcohol and the use of the pavilion by juniors would be addressed by not opening the bar whilst junior fixtures were taking place. In further support of the licensing objective the Applicant would implement child protection policy and procedures upon the grant of the CPC. The changing rooms were capable of being segregated which would prohibit direct access from the clubroom to the changing rooms. Any purchase of alcohol for child consumption would not be tolerated and would initially lead to the member being suspended pending investigation. It would be a requirement of bar staff to ask for proof of age, as per current licensing law. The Charity provided terms and conditions for each sporting group within which it was stipulated that all minors were to be supervised by a responsible adult within the pavilion clubroom, he drew attention to Appendix D and the Operating Schedule.

In summary, it was the view of Mr Delaney, the Trustees and the club members of Wittersham Sports Club that the provision of a CPC for all members to use at the sports club was for the benefit of all members. The prime aim of which was to sustain the Charity in meeting its financial obligations in maintaining the grounds and pavilion. Mr Delaney implored the Sub-Committee to grant the CPC for the long term future benefit of the Wittersham Sports Club.

Mrs Barrett, added that historically the Sports Club gained its revenue from subscriptions from sporting sections, which was never enough to cover its liabilities. A few fundraising events were always carried out to try to make up the shortfall. The creation of the trading subsidiary would generate the revenue, as the pavilion cost the Sports Club approximately £6,000 annually to maintain. As Mr Marshall had pointed out in his representation, there were a considerable number of remedial and refurbishment works required at the pavilion. The grant of the CPC would enable revenue to be generated and gift aided from the subsidiary to the Charity enabling it to carry out the much needed repairs. They wished to keep the sports club running and to create a nicer environment for the beneficiaries in the village.

Mrs Lewis challenged the assertion that the social club closed as a result of the intervention of the Council. She felt that this was incorrect, the bar continued to operate for a period after the social club closed. They continued to operate this under the Football Clubs licence for the whole of the financial year 2017, with the cricket club and the stoolball club using that licence. Since 1996, the cricket club had benefitted from the Football Club licence. She confirmed that the Council had informed the Football Club that it was their view that the cricket club could not continue to benefit from the licence, although she asserted that they had allowed that to happen, as she had discussed that matter with them. The Football Club's legal

advice was that the Cricket Club could use the licence as an associate club. For clarity, the Wittersham Football Club CPC was still valid, the fees had been paid and had not had it withdrawn. They were of the view that they had mothballed it at the request of the Council whilst the matter was resolved. They were still awaiting a reply to a letter to the Council regarding the status of the CPC and that matter required resolution. The Charity Commission had made it clear that a social club had no rights to operate from the premises under the terms of the lease and the Football Club was then obliged to withdraw the CPC from the use of the social club.

The Environmental Protection & Licensing Team Leader confirmed that there was a current CPC in relation to Wittersham Football Club which was not presently in operation. The Cricket Club would not be an associate club in terms of the Licensing Act requirements. Although a separate CPC did exist, it did not have any direct relation to the application before the Sub-Committee, other than it existed and had operated at the premises. It was only relevant in respect of the history and that a CPC had operated from the premises. The appendices contained a letter from Kent Police which gave a potted history of incidents which may be useful.

Mr Marshall, an Interested Party, addressed the Sub-Committee. He wished to highlight his concerns regarding the application for the CPC. He felt that the application was not charitable, but a business venture in the form of a Trojan horse. He had lived in the village for a number of years and painted a picture of tranquil village life. Mr Marshall drew comparisons with the previous "failed enterprise" although in his opinion this was more extensive in its requests. He had tried to be reasonable, the premises was only 7ft from the rear and side of his dwelling house, with the rear and second floor windows overlooking the sports fields. The documents contained within the agenda papers and the photographs provided were those originally submitted for the first application over six months ago and as a result many of the issues raised such as the septic tank and ditch were not dealt with in the report. He was of the opinion that all residents of the village would be affected by the grant of the CPC and the long hours requested would result in a rise in crime and anti-social behaviour. Additionally, there was risk to public safety from increased traffic and overspill parking on a small road. He disagreed with the comments in the report regarding parking, he felt that it was of concern to public safety. He had provided photographs detailing issues relating to parking and the boundary infringement and the blocking of light to his property. Mr Marshall felt that the grant of the CPC would exacerbate this issue from once or twice a weekend to a daily occurrence. He felt that a low boundary wall should be erected to resolve this ongoing matter and he requested a condition to stipulate this prior to any grant of the CPC. The thought of this issue occurring seven days a week was of grave concern to him. Drawing attention to the perceived increase in crime that the CPC could cause, he felt that this was an invitation for patrons to drink for extended hours then drink drive and partake in anti-social, noisy behaviour particularly late at night. There was no Police presence in the village and the response rate was approximately 30 minutes. Drawing attention to the last attempt at a "members club" the whole village experienced an increase in anti-social and criminal incidents, which ranged from burglary to urination in the street to empty alcohol bottles thrown into gardens. He felt that the opening times requested were akin to a public house and could not understand the reasoning for requesting such long hours of operation. The current charitable status document stated that the recreation ground was explicitly to

encourage sports for one and all with specific reference to children. Mr Marshall was concerned that children wishing to observe or play sport would be subjected to witnessing drinking, smoking and potential bad language and questioned whether this was an example that should be set. He felt that the proposed CPC would be a public nuisance as the area of consumption identified on the plan butted up to the rear fence of his and his neighbours properties. He had submitted a revision to this plan and requested that the Sub-Committee took this into consideration in the determination of the application. Further, he drew attention to the large halogen lights that had been installed to the pavilion and his concerns regarding this illuminating his garden and the rear of his property into the evening. Drawing attention to the licensing objective of protecting children from harm, he drew attention to photographs in the report which highlighted the dangerous risks near to the pavilion; an unfenced deep pond less than 30m away, a deep and dangerous ditch, 5ft wide and deep, there were concerns about this when full and when empty due to being filled with a large pipe that a child could crawl into. Mr Marshall confirmed he had tried to give the benefit of doubt to the application, however, these issues had not been raised by the applicant in the making of said application. He drew attention to the incident relating to the previous club and the Police findings of traces of cocaine at the premises. He could not support the application, not with the clear dangers that he had highlighted. Further, he felt that the applicants would require supervision as they disregarded rules and regulations. A rear door had been installed without planning permission and he felt this spoke volumes about that. He felt that this application was no better than the previous application that had been withdrawn. He and his wife objected to the application and he respectfully asked the Sub-Committee to refuse grant the application before them.

The Chairman clarified to the Interested Parties that they were to emphasise or amplify those points within their representations and not to read those out in full.

Mr Barkel, an Interested Party, addressed the Sub-Committee. He was concerned about the social aspect of the application and the prevalence of foul language that could be heard from his garden, which increased and became louder as the evening drew on. Whilst there had been discussions regarding the bar, there had been no reference to what sport events would take place at the premises. It was a sports club and should be doing sports related activities. The emphasis on alcohol was of concern to him, along with the social aspect of that, which was not well maintained for the surrounding residents. He supported the club itself and the cricket club. He wished effort would be placed on sporting activities for children during the summer holidays and not just into the promotion of bar facility. The sports club was a recreational hub and should be used as such, not a place to visit for a drink. Wittersham was a lovely village, and the school itself was one of the best, which was why his family had moved to the village. It was somewhere to live and enjoy. He wanted energies put into the promotion of sport, as it was a sports club. In conclusion, he strongly objected to the application and felt that it should be promoted as a sports club. He questioned how the membership of the club would work, particularly in relation to children.

The Principal Litigator requested clarification from Mr Barkel regarding his statement to the Sub-Committee as he had amplified the last paragraph of his representation however had not amplified other points within his representation pertaining to crime

and disorder and public nuisance and questioned whether he wished to make further comments.

Mr Barkel confirmed that he agreed with the comments made by Mr Marshall on those points, they had both witnessed the urination, being woken at all hours and drink driving. They did support the club but there were areas of concern. He applauded what the aims of the sports club were but in principle felt that would be hard to do. The anti-social behaviour; noise, urination etc, had been witnessed and did not occur when the public house was operational.

Mrs Walton, an Interested Party, addressed the Sub-Committee. Drawing attention to the licensing objective, the prevention of public nuisance, she read the description as contained on page 13 of the agenda papers. This was a sports field and 15 heartfelt and reasoned objections had been received from people living locally. Properties had been purchased in the knowledge that they looked out over a sports field and not a drinking establishment. The sight and sound of cricket and football was loved but it was also noted that it would be over by sundown. The granting of the CPC would be to allow public nuisance by markedly reducing the amenity of those living in the neighbouring properties. In addition to loss of amenity, public nuisance at common law also included the obstruction of the public and the exercise of their rights. The sports pavilion and a 20m radius sports field was noted as the club premises, however it was not occupied and habitually used and nor in her opinion could it lawfully do so. She advised that when sport was in progress, predominantly children's sport this would constitute an obvious obstruction to the public and the inhabitants of Wittersham who have used this premises for organised sporting, charitable use. When no sport was being undertaken, residents were entitled to peace and quiet. Only local, amateur sports groups were entitled to use the sports field on a regular basis. The applicant company was in her opinion a freestanding bar business and had no place on the playing field. She questioned the assertion that the Charity had shared its resources with the company, as the Charity could not share resources it did not have. It did not have the ability to authorise the sale of alcohol as it was not part of the terms of its lease. She felt that the application should never have been made. It could be rejected on the grounds of prevention of public nuisance alone and she urged the Sub-Committee to do so.

Mrs Lewis, an Interested Party, addressed the Sub-Committee. She advised that she was the secretary and welfare officer for Wittersham Football Club. She had been involved at the Club for over 20 years, since she first moved to the village. She wished to amplify her representation and highlight some areas to the Sub-Committee. She was aware that she could not raise concerns regarding the structure or administration of the club, and registered her displeasure at this.

The Principal Litigator interjected to clarify a point with Mrs Lewis and advised that an email in relation to this matter had been received from Mrs Lewis, and had been received, addressed and considered along with the documents that had been received, namely photographs of posters etc.

Mrs Lewis then clarified her additional concern that was that the Sub-Committee was being misdirected in the report in respect of being told what they could and could not consider.

The Principal Litigator again clarified to both Mrs Lewis and the Sub-Committee that whilst the report before the Sub-Committee suggested what could or could not be considered (i.e. gave guidance in this respect), it was a matter for them alone to consider the representations and the impact on the licensing objectives and their effect or not. This was irrespective of the guidance set that was helpfully put in the report and she wished to reiterate that point again. The guidance within the report was that, guidance, and it did not bind the Sub-Committee, it was their decision alone. It was for the Sub-Committee to consider all the representations and in line with the government guidance (not the report). The Principal Litigator indicated that she would be ensuring that this was the task undertaken by the Sub-Committee.

Mrs Lewis was concerned regarding the wording used within the report and agreed with the Principal Litigator that it was up to the Sub-Committee to consider whether something was relevant or not. Drawing attention to the licensing objective, protecting children from harm, Mrs Lewis referenced the Councils licensing policy and that all of the licensing objectives were of equal importance but on reading the section 182 guidance it stated that the Licensing Authority should give considerable weight to any representation about the protection of children from harm. In her view, there was a suggestion that additional weight should be given to that matter and was sure the Sub-Committee would give it careful consideration. The Football Club had been in existence since 1905, and the sports field since 1960. They had a senior team since 1905, however the main focus over the past 20 years had been children. It was not a huge club, and therefore she knew all of their children, which made her job easier, as the Welfare Officer to keep the children safe. She confirmed that the Football Association (FA) were "on their case" about having procedures in place, it was onerous. She felt that as it stood the children were well protected. The Football Club had its own CPC, since 1995. Mrs Lewis felt that her representation covered her concerns well and that there was a fundamental difference from a CPC operated by a club, only when senior football was taking place and for occasional fundraising events (if they involved the larger public these would require a Temporary Event Notice, which she acknowledged). The bar was ancillary. The application before the Sub-Committee was an entirely different concept. Mr Marshall and Mr Barkel had both made reference to the issues involving children as they had seen first hand that the field was used predominantly by children. She felt that during the last season, the cricket club had a handful (four or five) of fixtures and stoolball did not operate, therefore it was mainly the children that used the field. The Football Club was in control, everyone there was associated with the Football Club. If the control of the bar went to the trading company, that control would be lost and that was where she viewed the danger to be. She questioned how the children would be kept safe. The pavilion was a modest building, the clubroom doubled up. Referring to the sink, and the references to Health & Safety at Work Act, there were no staff, only volunteers. There were no other sinks from which to get a drink of water. The bar would not be separate. Mrs Lewis drew attention to the conditions that would be attached to the license. She was grateful that the Applicant had taken on board comments and tried to address them. The condition pertaining to safeguarding personnel was to be expected and was welcomed, she felt there should be a requirement for that person to hold an enhanced Police check and requested that this be considered. Meaning that the Lead for Safeguarding also held the correct DBS check which was 'enhanced'. Drawing attention to proposed Condition 13, Mrs Lewis said that conditions should be clear and unambiguous in what they were trying to achieve and

this condition recognised some of the concerns she had raised regarding the conflict between children engaged in sport activities and the use of the premises. She felt that this condition was not precise enough and did not go far enough. The problem she felt would not be during matches but training because training was in the evenings. As Mr Marshall had stated the area for consumption encroached on the training pitch and the area for smoking was outside the changing rooms, so children would be subject to adults drinking outside whilst training. She requested that the condition included training, she felt that this was very important and that the word fixtures should be replaced by matches. In her opinion fixtures could be ambiguous, matches would include friendly matches and provide clarity for the intent of the condition. Finally, Mrs Lewis drew attention to proposed condition 14, she advised that it caused her concern. She advised that the law in relation to unaccompanied children was different for premises that were not exclusively and primarily used for the supply and consumption of alcohol. At present unaccompanied children could go onto the premises. There had been some confusion with the Sports Club Trustees on that point, however that in her view was correct. The Applicant Company deemed it necessary to impose the condition which said that children had to be accompanied, which was a move away from a safe child centred environment that had been built up. The condition would be saying that for senior games at which children attended unaccompanied would mean that children would not be allowed in the clubroom and no longer able to purchase a packet of crisps and a can of coke or sit down and socialise with their friends. She questioned whether they would have to be out in the cold and rain and not allowed in for shelter. She felt it would destroy the ethos of Wittersham Football Club as being always welcoming to children and confident they could keep them safe. Mrs Lewis felt that it was a pity that the Applicant Company did not share that confidence and the whole focus had been turned on its head and the condition indicated that the licensed premises would change to one exclusively and primarily used for the consumption of alcohol. She hoped that in considering the case the Sub-Committee would preserve the safe and caring environment that had been created for the children and the work underway to promote health and wellbeing would not be undermined. She reminded the Sub-Committee of the guidance in relation to child protection matters.

The Chairman questioned whether the Applicant had any comments to make regarding the suggested changes to conditions as put forward by Mrs Lewis. The Principal Litigator clarified that the applicant was not obliged to make any comment on the suggestion but was merely being given an opportunity to.

Mr Delaney indicated that the wording fixtures could be amended to matches if this was helpful. Additionally the proposal regarding the enhanced Police check was also agreeable and was actually already in place.

The Principal Litigator questioned whether the Applicant had any comments regarding Condition 14.

Mr Delaney advised that the terms and conditions, which were provided to each sporting group, had a stipulation that all minors were supervised by a responsible adult within the pavilion clubroom, therefore all that was occurring was a replication under Condition 14. He did not believe they should be doing anything else.

Mrs Barrett also advised that the Football Club's terms and conditions and rules and regulations that were signed by the Football Club in 2006 (she thought), stated that children should be accompanied and supervised at all times when in the clubroom or around the bar area. Therefore, she advised that this condition was replicating that which was currently in existence.

Moving on, the Environmental Protection & Licensing Team Leader suggested that the Sub-Committee request clarification on who was responsible for the installation of the sink in question and how the grant of the CPC would impact on public safety in relation to that matter.

The Principal Litigator noted that there had been acceptance of changes to two conditions, and questioned whether Mrs Lewis wished to make further comment on these.

Mrs Lewis thanked the Applicant for the acceptance of those changes, The Sub-Committee had heard her main concern that training should be included with Condition 13, as the evening training could be a problem. Given the problems identified she requested that the Sub-Committee included training within this condition as she did not see how they would be able to protect the children if that was not included. In reference to Condition 14, if the applicant club did not feel that they could keep children safe without them having to be accompanied, this was something that they had not had before. There was a difference between supervised and accompanied. She was present at senior matches but her capacity was different to that at children's games and training. Children may attend who were not players and that she did not know, but there was a fundamental difference. Children who wanted to come in and watch a game and get a drink and a bag of crisps which had never been a problem in the past, they could come in and say "Miriam can I have a coke and a bag of crisps? Yes of course you can". She would be sad to see that go, so asked that the Sub-Committee discussed this. The condition was not appropriate in her view.

The Principal Litigator advised that Condition 14 used both words accompanied and supervised.

Mrs Lewis felt that this would be an issue, which had occurred before whereby a child was thrown out of the clubroom. This was sad to see, it was because they were unaccompanied but in her view they could be there. It was under the Football Club's CPC. She was upset about this condition.

The Principal Litigator requested clarification as to whether Mrs Lewis wished for this condition to be removed.

Mrs Lewis confirmed that this was the case, she wished for the condition to be removed.

The Principal Litigator asked the Applicant if they would object to the removal of the condition.

Mr Delay advised that it was a stipulation of the sports clubs conditions, of which the sections had agreed to and the Trustees of the Charity were implementing to the sections that minors were supervised by a responsible adult whilst in the pavilion clubroom. Therefore, they did not believe that accompanied/supervised was a major issue. It was a private members club.

Mrs Lewis raised objection to the comment about a private members club. They were a Football Club.

The Environmental Protection & Licensing Team Leader reiterated his questions regarding the sink and whom was responsible for fixtures and fittings within the building itself and how the existence of the sink would impact on the public safety.

Mrs Barrett confirmed that Wittersham Sports Club and its Committee were responsible for all maintenance issues in the pavilion and clubroom and the sink was installed on their instruction. It was hoped to extend refurbishment at a later date once revenue was generated and install a mini kitchen which would satisfy all requirements. Additionally, the statement that this was the only place for fresh water was incorrect.

Mrs Lewis advised that the sink was low level and caused users to bend over whilst washing up or getting drinks. It was a safety issue in her opinion, and the guidance indicated that that could be taken into account.

The Chairman questioned whether this was a current safety issue and how this would change with the grant of a CPC.

Mrs Lewis said this would be more of an issue as there would be greater use of the sink.

Mrs Barrett advised that any increased use would be minimal, the bar would only be open with events. The Applicants would be the ones serving the drinks. This was a separate issue from the application before the Sub-Committee.

The Chairman requested clarification on the sporting events undertaken at the premises.

Mrs Barrett advised that the following took place; football, cricket, junior football, stoolball would start up again in May and there would be junior cricket. She confirmed that stoolball was a cross between cricket and rounders. Table tennis would also take place at the premises. They were hoping to add more sports and activities as the use of the facilities increased. She confirmed that the Club was donated a table tennis table, an outdoor table – it had been retrieved from alongside Mr Marshalls property and put back in its place.

A Member questioned what time the junior matches and training finished.

Mrs Lewis advised that the junior matches were mainly Saturday mornings, sometimes these took place on Sundays and at time late kickoffs, until 2pm. She confirmed that they would be playing evening games that season as they were so far

behind with their fixtures due to a waterlogged pitch. An evening kickoff would be 6pm to allow for everyone to attend. In respect of a finish time she was unable to give a definitive response, although it would not be after 8pm.

A Member questioned whether a water fountain or dispenser would be helpful.

Mrs Lewis confirmed that this would be acceptable although she was unsure how this could be ensured.

Mrs Barrett advised that there was fresh water available in both changing rooms, the sink behind the bar was not the only source of fresh water. All fresh, potable water was available at all sinks in the premises.

A Member requested clarification on Condition 13 and why this only pertained to Football but not other childrens sporting activities.

Mr Delaney advised this was because the FA were draconian in relation to the serving of alcohol. Cricket was not bound by such rules and regulations.

The Chairman questioned what other junior teams there were besides football.

Mr Delaney confirmed that there were no other junior teams.

The Chairman requested clarification regarding the finding of drug traces at the premises and the checks undertaken to ascertain this.

The Licensing Officer (JP) advised that there were no drugs found on the premises. A swabbing operation had been carried out jointly between himself and the Police Licensing Officer in December 2016. These checks were routinely carried out at premises. A swab was run over surfaces, placed into a machine and a read out would be given. It was an indicator, he could not confirm what that reading was but it was sufficient that an advisory letter was sent. If a premises caused concerns then a further visit would be carried out. A trace of any drug in the premises could not be linked to any one individual or group, it was in the toilet area which could be used by anyone.

The Chairman asked the Applicant for clarification regarding the CCTV reinstatement and whether this needed to be reinstalled or switched back on.

Mr Delaney confirmed that the CCTV system just required switching back on.

In summing up to the Sub-Committee, Mr Delaney reiterated that the application was for the benefit of the Charity, the trading company was a subsidiary of the Charity. The Charity would derive the benefit of any surpluses coming from the trading company. It was important in terms of the maintenance of the building and the grounds and they wished to increase the amount of sport played at the ground and also recreational activity which would be for the benefit of the parishioners of the village and club members. He hoped this would become a place that would enhance the village. The premises would not be run as a pub.

The Sub-Committee retired to deliberate and make their decision. On returning, the Chairman read the Decision and Reasoning Statement.

Resolved

The Club Premise Certificate be granted as applied for with the following conditions:

General

1. The certificate holder shall ensure that a membership card scheme is introduced to ensure that the supply of alcohol and benefits of membership are only provided to genuine members in accordance with the club rules.
2. The certificate holder shall ensure that a guest book is maintained at the bar, and that all guests are required to utilise the signing in book. Information to be recorded should include; time and date of guest entry, name of guest, and, name of member associated with the guest.

The Prevention of Crime and Disorder

3. A CCTV system shall be designed, installed and maintained in proper working order. Such system shall be:
 - Operated by properly trained staff.
 - Be in operation at all times that the premises are being used for a licensable activity
 - Ensure coverage of the bar area, all entrances and exits to the licensed premises (internally and externally) and general coverage of the club room.
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 30 days, and shall be supplied to the licensing authority or a police officer on request.
4. The certificate holder shall ensure 'Drink Aware' and 'Zero-Tolerance to Drug Use' signage is installed in suitable locations within the premises

Promotion of Public Safety

5. The certificate holder shall ensure that there are a suitable number of nominated and trained first aiders

The Prevention of Public Nuisance

6. The certificate holder shall ensure signage is installed advising customers to leave the premises quietly and in an orderly manner.
7. The certificate holder shall act to ensure that members/guests to use the designated smoking area (see associated premises plan) for smoking. In this

area a cigarette butt bin shall be installed, and periodically emptied, to prevent litter.

8. The certificate holder shall ensure that periodic reminders are provided to members regarding the need to park responsibly within the associated car park and locality.
9. The certificate holder shall ensure that litter bins are installed in the associated car park and emptied at suitable frequencies in order to minimise litter.
10. The certificate holder shall ensure that external lighting used as part of the Club Premises Certificate operation is limited to that required for health and safety purposes i.e. lighting of the car park, entrances and pathways. Such lighting shall be installed in such a manner as to prevent a nuisance to nearby residential premises.
11. The area provided outdoors for the consumption of alcohol shall only be used for such until 21:30 hours on Sunday to Thursday and 22:00 on Friday to Saturdays. After this time the outdoor area shall only be used for the purposes of smoking, with no drinks being allowed outside.

The Protection of Children from Harm

12. The certificate holder shall ensure that the supply/sale of alcohol will not take place at times when junior fixtures of the football section (for those aged 18 and under) are taking place
13. The certificate holder shall ensure the club have a trained lead for children's safeguarding. The trained lead shall have an enhanced DBS. Such person shall be responsible for reporting, and addressing, concerns with reference to potential harm to children arising from the use of Club Premises Certificate for the supply of alcohol to members/guests.

The decision notice and formal wording read out by the Chairman is appended to these minutes. A copy of the decision was given to the applicant at the conclusion of the meeting, with copies sent electronically that evening to those attendees that had been unable to remain for the conclusion of the meeting.

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**LICENSING SUB-COMMITTEE
FRIDAY 7th FEBRUARY 2020**

**APPLICATION FOR A CLUB PREMISES CERTIFICATE FOR
WITTERSHAM GENERAL SPORTS CLUB TRADING LIMITED
(POPLAR ROAD, WITTERSHAM, ASHFORD)**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

LICENSING OFFICERS

Trevor Ford
Julian Postlethwaite

**REASON FOR
MEETING:**

An application was made for a Club Premises Certificate at Wittersham Sports Ground. Representations were made by 15 parties leading to a Hearing.

DELIBERATION:

The Licensing Sub-Committee listened to the introduction given by the Environmental Protection & Licensing Team Leader in respect of the application made, for the club premises licence for the supply of alcohol from the premises.

The Environmental Protection & Licensing Team Leader drew attention to concerns that had been raised pertaining to the validity of the application. He addressed these points and further confirmed that additional concerns that had been received during the past 24 hours had been considered by Officers and discussions had been held with the Applicant prior to the commencement of the meeting. Officers were content with the validity of the application and the Sub-Committee confirmed that they were satisfied that the application was valid and wished to proceed with the consideration of the application.

The Environmental Protection & Licensing Team Leader clarified the application before the Sub-Committee. A Club Premises Certificate varied from the traditional Premise Licence. The Club and bone fide guests would benefit from the grant of such licence. The premises would not be open to the general public. Attention was drawn to the application within the agenda papers and the site itself. There had been no objections received from any responsible authorities, however 15 representations had been received from residents. He drew attention to the options available to the Sub-Committee in the determination of the application.

The Sub-Committee heard from the Applicant and the Representative. Attention was drawn to how the Wittersham General Sports Club was formed and the aims to refurbish and renovate the premises for those who used it. Some works had been undertaken, however there were many improvements still awaited. The implementation of the bar would benefit the club as the profits could then be reinvested for those clubs using the premises. Referencing the Licensing Objectives, they drew attention to the conditions that were proposed that would ensure that these were met. Each club using the premises were required to sign and abide by the terms and conditions of the Club.

The Environmental Protection & Licensing Team Leader advised that there was a Club Premises Licence in place that was held by the Football Club, however this was not being utilised. There was a potted history associated with that Licence, however the Sub-Committee were there to determine the application at hand.

The Sub-Committee heard from Mr Marshall, who amplified his representation and additionally gave an overview of the village and what he felt were the pitfalls of the application before the Sub-Committee. He drew attention to the photographs submitted with his representation. There were a number of concerns pertaining to parking issues and light pollution. Drawing further attention to issues regarding a boundary wall and imposition on his property he was disappointed that further consideration had not been given to the construction of a low boundary wall to protect his property and the access to his gate. The lack of Police presence within the village was highlighted and he embellished upon his concerns regarding the rise in Anti-Social Behaviour that had occurred when the previous Club Premise Licence was active.

The Sub-Committee then heard from Mr Barkel, whose main concerns were related to Anti-Social Behaviour and the use of foul language and such emanating from the premises. The impression had been given that the application and purpose was "all about the bar", the Sports Clubs priority should be on the clubs. He urged the focus to be based on the support, and improvement of the clubs and the sport played at the premises and not just on the supply of drink. He confirmed that he supported the views of Mr Marshall.

The Sub-Committee heard from Mrs Walton, who drew attention to the Prevention of Public Nuisance objective and read the description of this to the Sub-Committee in full. In her statement she highlighted the boundaries of the Club and suggested that these were not occupied nor habitually used. When sport was not being undertaken then residents were entitled to peace and quiet. She felt that the application should never have been valid.

The Principal Litigator advised that all correspondence received, including that received in the past 24 hours, questioning the validity of the application and associated matters, had been reviewed and considered by Officers and the Legal department.

The Sub-Committee then heard from Mrs Lewis, who advised that she was the Secretary & Welfare Officer for Wittersham Football Club, a position which she had held for over 20 years. She highlighted S182 and the point contained within that the Local Authority should give considerable weight to representations pertaining to the Prevention of Children from Harm. Further, she gave an overview of the Club Premises Licence held by the Football Club. She was concerned that there was no separation from the club room and that children would need to be supervised within the premises which was contrary to that currently taking place. In highlighting the conditions to be added to the licence, she believed that the trained lead should have an enhanced DBS check. In addition to this, she felt that condition 13 was unclear and conflict could occur. Furthermore, she requested that condition 14 be removed from the licence.

The Applicant, in response to Mrs Lewis' comments, confirmed that he could agree the change of term from 'fixtures' to 'matches' and did not object to the need for the person in charge of safeguarding to hold an Enhanced DBS. However, he explained that the terms and conditions of each club required the supervision of children within the premises and so the condition pertaining to this (condition 14) was elevating such requirement.

The Environmental Protection & Licensing Team Leader requested clarification regarding the installation of the low sink in the bar area and how this would impact upon public safety. The Applicant advised that this was the remit of the Club, not the Charity.

In response to questions from the Sub-Committee, the Applicant advised that there were a number of sporting activities taking place. The only youth sport that currently took place was football. Mrs Lewis advised of the timings of football matches and that these were open to change, dependent on the time of year.

The Licencing Officer gave an overview of the drug swab testing that was carried out at the premises that was detailed within the report. The indicator highlight that there was sufficient substance detected that Officers had written to the Licence Holders to advise on how to proceed. These traces were found in the toilet facilities and there was no way to link this to any group or individual as these could be used by anyone.

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 gave significant consideration to all the representations received, noting that historical events and the holding of a Club Premise Certificate by the Football Club were not of relevance to the determination of this application. Whilst these gave an indication of what had previously occurred this could not colour the judgement in considering this new Club Premises Certificate. The Sub-Committee also considered the clarification points made by the Licensing Officer in respect of drug traces at the premises that had been mentioned in representations and the explanation given for the Police documents contained within the report. In addition to this, the Sub-Committee closely analysed the content of the representations made by the following, and considered their relevance to the promotion of the licensing objectives:

Karin Singleton –The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted that driving under the influence would not be within the control of the proposed Club Premise Certificate application, as it wasn't within the control of the holder of the current Club Premise Certificate. However, it was noted that signs would be put up advised against this – Drink Aware signage and Zero Tolerance to Drug Use.

Ann Simpson – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted one of her concerns appeared to be that this would revert to a public house “club into a pub” the Sub-Committee were satisfied with the Applicants assurance that this was not their intention. Further, it was noted that it was in fact a membership club and not open to the general public.

Mr & Mrs Avery – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted that Anti-Social Behaviour was not tolerated by the Applicant and the relevant concerns were addressed in the conditions put forward. The Sub-Committee were satisfied with the conditions offered to alleviate these concerns.

Mr Barkel – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted

the concerns were based on historical events and fears of history repeating itself. The Sub-Committee were reassured by the Applicant that this was not to be a drinking establishment but for the benefit of the Charity, a place to enhance the village. The Sub-Committee noted that the conditions offered would assist to minimise any occurrence of crime, disorder and public nuisance.

Wittersham Football Club (Mrs Lewis) – The Sub-Committee were comforted by the authority she brought to the licensing objective of Protection of Children from Harm. Which is recognised as an important licensing objective, indeed she quoted 2.29 of the Revised Guidance issued under section 182 of the Licensing Act 2003 in this regard. They noted, in particular, her detailed analysis of the conditions in respect of the licensing objective of Protect from Children from Harm. In respect of condition 12, she wished the trained lead to have an enhanced DBS and stressed the importance of this. The Applicant had already accepted to alter the condition to this effect and the Sub-Committee were in full agreement that this was appropriate. In respect of condition 13, there was a want for the word 'fixtures' to be changed to 'matches' and to add training times to this. The Applicant explained that the draft of this condition was in line with the ruling body, the Football Association stipulation regarding alcohol around children and safeguarding of the same. Fixtures had a clearly defined meaning within the Football Association and the Sub-Committee did not want the condition to be in any way ambiguous therefore were minded that this condition remains unchanged, therefore the word 'fixture' remains and the Sub-Committee were not minded to include training times as they could not be specified and this was too vague. In respect of condition 14, there was much explanation as to why this was not necessary in safeguarding terms and potentially affected the shared use of the said club room. Mrs Lewis wished this condition to be removed. In light of her compelling argument in this regard, despite the Applicant not believing this to be necessary the Sub-Committee were in agreement with Mrs Lewis and therefore condition 14 could be removed from the Club Premise Certificate.

Oliver Lewis – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted the point regarding the sink in the club room not meeting health & safety regulations, the Sub-Committee were mindful that the grant or not of a Club Premises Certificate especially when there is already one in existence had no bearing on the safety or not of the sink in question. The Sub-Committee are concerned and alarmed that there exist health & safety issues in respect of this sink and whilst have no authority to insist that this is remedied through the Club Premise Certificate process, wish to make it known to all owners and occupiers of the land in question to attend forthwith and resolve this current issue. The smoking area and relocation of

the same was considered further by the Sub-Committee further to this representation, however upon deliberating this point the Sub-Committee were satisfied with the location proposed this being the furthest away from residential properties and therefore should cause the least nuisance. It was accepted by the Sub-Committee that the wind could blow smoke in any direction and therefore beyond control.

Gillian Kirk – The Sub-Committee considered that the conditions satisfied the concerns raised within.

Ann Beeching – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted that she too was concerned about the sink. Thereby reinforcing the Sub-Committees view that irrespective of a grant or otherwise of a Club Premise Certificate the health and safety of the sink in question should be attended to by the appropriate persons/Club.

Spencer King – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted his concerns regarding light pollution which was addressed further to the conditions however the Sub-Committee noted that light pollution would be an issue irrespective of a Club Premise Certificate, namely the use of flood lights during matches. Further, it was noted that noise pollution e.g. Shouting at matches is a separate issue to any Club Premise Certificate and would occur irrespective.

Daniel Bennett – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted that it was not the Applicants intention for this to become a public house.

Tony & Gina Marshall - The Sub-Committee considered that the conditions satisfied the concerns raised within, however noted the proposal of a condition for the erection of a 4ft fence were not parked within their boundary. The Sub-Committee noted that this was an issue for them irrespective of whether the Club Premise Certificate was granted or not and therefore this should be raised with the landowners to address to ensure that whoever visited or used the facilities did not encroach upon his land or access. This was not something that the Sub-Committee could condition against but noted his genuine concern in this regard.

DA & C Craib – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted their concerns regarding light pollution which was addressed through conditions and the operation of floodlights would occur irrespective of a Club Premise Certificate.

Alison Stevens – The Sub-Committee considered that the conditions satisfied the concerns raised within.

George Parkin – The Sub-Committee considered that the conditions satisfied the concerns raised within, however in particular noted that there was a concern about no separate toilet facilities in respect of protecting children from harm and bar users. The Sub-Committee noted that the Applicant indicated that there could be a reconfiguration of access to toilets if required. The Sub-Committee were mindful of the numerous difference parties that had access to and used the premises, notwithstanding the holder of the other Club Premise Certificate, as such they respectfully suggest that a collective decision is made as to whether this is necessary and if so, to organise the works with the appropriate body that attends to such maintenance or improvements to the fabric of the building in question as this is outside the scope of the Sub-Committee.. Further, whilst it was noted that there was a concern about unknown persons being about the premises who may not have criminal records checks and this being of concern, this is something could be a current problem and therefore a grant of an additional Club Premise Certificate would not effect this perceived problem.

Mary Walton - The Sub-Committee considered that the conditions satisfied the concerns raised within, and noted that there was no public entertainment applied for in respect of this Club Premise Certificate.

Further, the Sub-Committee considered the representations made by both the Applicant and those that attended to amplify upon their previous representations.

During their deliberations, the Sub-Committee considered that the Applicant had been willing to make amendments to the proposed conditions.

The Sub-Committee noted that the terms and conditions that each club was required to abide by were also covered condition by 14, and that had been proposed for deletion.

In making their decision, the Sub-Committee gave due consideration to all of the Licensing Objectives.

DECISION MADE:

The Club Premise Certificate be granted as applied for with the following conditions:

(Conditions consistent with the application)

General

1. The certificate holder shall ensure that a membership card scheme is introduced to ensure that the supply of alcohol and benefits of membership are only provided to genuine members in accordance with the club rules.
2. The certificate holder shall ensure that a guest book is maintained at the bar, and that all guests are required to utilise the signing in book. Information to be recorded should include; time and date of guest entry, name of guest, and, name of member associated with the guest.

The Prevention of Crime and Disorder

3. A CCTV system shall be designed, installed and maintained in proper working order. Such system shall be:
 - Operated by properly trained staff.
 - Be in operation at all times that the premises are being used for a licensable activity
 - Ensure coverage of the bar area, all entrances and exits to the licensed premises (internally and externally) and general coverage of the club room.
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 30 days, and shall be supplied to the licensing authority or a police officer on request.
4. The certificate holder shall ensure 'Drink Aware' and 'Zero-Tolerance to Drug Use' signage is installed in suitable locations within the premises

Promotion of Public Safety

5. The certificate holder shall ensure that there are a suitable number of nominated and trained first aiders

The Prevention of Public Nuisance

6. The certificate holder shall ensure signage is installed advising customers to leave the premises quietly and in an orderly manner.
7. The certificate holder shall act to ensure that members/guests to use the designated smoking area (see associated premises plan) for smoking. In this area a cigarette butt bin shall be installed, and periodically emptied, to prevent litter.
8. The certificate holder shall ensure that periodic reminders are provided to members regarding the need to park responsibly within the associated car park and locality.
9. The certificate holder shall ensure that litter bins are installed in the associated car park and emptied at suitable frequencies in order to minimise litter.
10. The certificate holder shall ensure that external lighting used as part of the Club Premises Certificate operation is limited to that required for health and safety purposes i.e. lighting of the car park, entrances and pathways. Such lighting shall be installed in such a manner as to prevent a nuisance to nearby residential premises.
11. The area provided outdoors for the consumption of alcohol shall only be used for such until 21:30 hours on Sunday to Thursday and 22:00 on Friday to Saturdays. After this time the outdoor area shall only be used for the purposes of smoking, with no drinks being allowed outside.

The Protection of Children from Harm

12. The certificate holder shall ensure that the supply/sale of alcohol will not take place at times when junior fixtures of the football section (for those aged 18 and under) are taking place

(Conditions amended by the Sub-Committee)

The Protection of Children from Harm

13. The certificate holder shall ensure the club have a trained lead for children's safeguarding. The trained lead shall have an enhanced DBS. Such person shall be responsible for reporting, and addressing, concerns with reference to potential harm to children arising from the use of Club Premises Certificate for the supply of alcohol to

members/guests.

(Condition removed by the Sub-Committee)

The Protection of Children from Harm

14. The certificate holder shall ensure that children in the clubroom, during operation of the club premises certificate, shall be accompanied/supervised by a responsible adult.

Additional notes made by the Sub-Committee to those present at the hearing:

- Interested Parties and Responsible Authorities were reminded that they may apply for a review of this Club Premises Certificate “after a reasonable interval” pursuant to section 87 of the Licensing Act 2003.
- Entitlements to appeal for parties aggrieved by the decision of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- An appeal must be made to a Magistrates Court.
- An appeal is to be commenced by the giving of a notice of appeal by the appellant to the Designated Officer for the Magistrates’ Court within the period of 21 days beginning on the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

Dated: 7th February 2020

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PROCEDURE NOTE FOR LICENSING HEARINGS

1. Prior to the meeting of the Committee¹, 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 public². The Committee may also exclude anyone behaving disruptively.³
3. The parties⁴ 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.⁵
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.⁶ 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.⁷
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.⁸ 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.⁹
8. At the outset of the meeting, a Chair will be elected and any personal and/or prejudicial interests declared.¹⁰
9. Except where the Regulations make specific requirements, the procedure will be in the discretion of the Committee.¹¹

¹ In this Note the expression "the Committee" includes a sub Committee.

² Reg 14 Licensing Act 2003 (Hearings) Regulations 2005

³ Reg 25.

⁴ 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.

⁵ Reg 10

⁶ Reg 11.

⁷ Reg 20.

⁸ Reg 12.

⁹ Reg 13.

¹⁰ Model Code of Conduct

10. At the beginning of the hearing, the Committee will explain to the parties the procedure it proposes to follow.¹²
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 party¹³ 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.¹⁴
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.¹⁵ 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.¹⁶
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).¹⁷
18. The Committee must allow an equal maximum time for the parties to exercise their rights as set out in para 17 above.¹⁸

¹¹ Reg 21.

¹² Reg 22

¹³ see footnote 4

¹⁴ Reg 15.

¹⁵ Reg 22

¹⁶ Reg 22

¹⁷ Reg 16.

19. The Committee will set the time of the hearing at the outset, having regard to its view of the length reasonably required for the hearing. It may hear the parties briefly before setting the maximum time. It may extend the time where circumstances require.¹⁹
20. The hearing is to take the form of a discussion led by the Committee.²⁰ The Chairman will ensure that within the discussions, all parties are given an opportunity to state their case as set out in their written application/representations and to meet the case of opposing parties.
21. Cross-examination will not be permitted unless the Committee considers that it is required for it to give proper consideration to the case.²¹ Any application to cross-examine will be heard and dealt with at the hearing.
22. The Committee may consider cross-examination to be required, for example, where there is a genuine issue of fact, which can only be resolved fairly through cross-examination.
23. The Committee may question any party or other person(s) appearing.²²
24. The Committee may take into account documentary or other information provided by a party before the hearing. Information produced at the hearing may only be taken into account with the consent of all other parties.²³ The parties are therefore strongly recommended to exchange documentary evidence and brief summaries of any proposed witness evidence at least 5 days before the hearing, otherwise they may be restricted in the information they can put before the committee. Any material exchanged should also be given to the licensing authority at the same time.
25. The Committee must disregard any information given which is not relevant to the application, representations or notice of the party giving the information. The Committee must also disregard any information which is not relevant to the promotion of the licensing objectives.²⁴
26. In certain circumstances, the Committee is required by law to make its determination at the conclusion of the hearing. This includes certain applications made during the transitional period, counter-notices following police objections to temporary events notices, and reviews of premises licences following closure orders. Otherwise the Committee is required to determine the application within five working days of the day or the last day on which the hearing was held²⁵.
27. The Committee will give reasons for its decision and will confirm the decision in writing to the parties.

¹⁸ Reg 24.

¹⁹ Reg 11

²⁰ Reg 23.

²¹ Reg 23.

²² Reg 17.

²³ Reg 18.

²⁴ Reg 19.

²⁵ Reg 26.

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