



LICENSING AUTHORITY REPRESENTATION

This representation is made by Enfield's Licensing Enforcement Team and is made in consultation with and on behalf of the Trading Standards Service (inspectors of Weights & Measures), Planning authority, Health & Safety authority, Environmental Health authority and the Child Protection Board.

I confirm I am authorised to speak at any hearing on behalf of the Licensing authority, Trading Standards Service (inspectors of Weights & Measures), Planning authority, Health & Safety authority, Environmental Health authority, and Child Protection Board).

Name and address of premises: Ponders End Smallholders Association (PEDSA)
82A Church Road
Enfield
EN3 4NU

Type of Application: Club Premises Certificate Review (Member)

I certify that I have considered this review and **I wish to make representations** supporting the review application as activities at the premises are detrimental to the Licensing Objectives.

This review application has been submitted by a member of the club to which this application relates. The applicant claims that the following licensing objectives are being undermined:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance

The applicant is applying to have the Club Premises Certificate suspended. In their Appendix 11 they state that they want the certificate to be suspended until the association complies with Financial Conduct Authority regulations and can prove that it is a financially viable business capable of meeting its financial commitments, demonstrated by up to date account and a cash flow.

The Licensing Act 2003 states that a licence or club premises certificate can only be suspended for a maximum of 3 months.

The Licensing Authority supports the need for a review of this Club Premises Certificate but not for all the same reason as the applicant.

Background History:

This club is an Allotment Association with a club house and a trading hut. There are two types of members – plot holders and associate members who are not plot holders.

The Association has a long history and appears to have been established in 1920. The Licensing Authority does not want to see such a long established community club lose its Club Premises Certificate however it must comply with licensing legislation.

This Club Premises Certificate was first issued on 23rd June 2005. This was converted and varied when the licensing legislation changed. The certificate permits the following qualifying club activities and times:

Activity	Current Hours
Opening Hours	24 hours everyday
Supply of Alcohol (on and off supply)	10:00 – 23:00 – Monday – Saturday 12:00 – 22:30 - Sunday
Recorded music	24 hours everyday
LNR	23:00 – 23:30 Monday – Saturday

The club also has a Club Machine Permit which was issued on 29/09/16 and allows the club to make available for use up to three gaming machines, each of which must be of Category B3A, B4, C or D. This permit lasts 10 years but an annual renewal payment is required.

This club is registered with the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 which replaced the Industrial and Provident Societies Act 1965 when it was repealed.



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Mutuals Public Register

Mutuals Register	Society Name:	Ponders End and District Small Holders Association Limited
	Number & Suffix:	7647R
Home		Falcon Fields Church Road
Search	Address:	ENFIELD Middlesex EN3 4NX
Fees		
My Documents	Status:	Registered
My Account	Registered On:	27 Feb 1920
Order Form	Registration Act:	Co-operative and Community Benefit Societies Act 2014
Shopping Basket	Date of Last Move:	21 Nov 1989
Glossary	Financial Year End:	31/12
Help	Deregistration Date:	
	Deregistration Method:	
	Transferred to Society/Company Number:	
	Transferred to Society/Company Name:	
	Transfer Method:	

The documents listed below are available for purchase online and can be downloaded following confirmation of payment. Other public documents may be available for this society. Details of how to order these as either electronic or paper copies are given on the [Home page](#).

Date Added	Document Available to Purchase Online	Date of Document	Price	Select
26 Jun 2017	Annual Return and Accounts	31 Dec 2015	£12.00	<input type="checkbox"/>
16 May 2017	Annual Return and Accounts	31 Dec 2014	£12.00	<input type="checkbox"/>
09 May 2017	Annual Return and Accounts	31 Dec 2011	£12.00	<input type="checkbox"/>
09 May 2017	Annual Return and Accounts	31 Dec 2010	£12.00	<input type="checkbox"/>
09 May 2017	Annual Return and Accounts	31 Dec 2012	£12.00	<input type="checkbox"/>
03 Apr 2017	Partial Amendment to Rules	03 Apr 2017	£12.00	<input type="checkbox"/>
15 Apr 2016	Annual Return and Accounts	31 Dec 2013	£12.00	<input type="checkbox"/>
12 Jan 2015	Annual Return and Accounts	31 Dec 2008	£12.00	<input type="checkbox"/>
05 Mar 2014	Original Rules	27 Feb 1920	£12.00	<input type="checkbox"/>
23 Jul 2013	Annual Return and Accounts	31 Dec 2000	£12.00	<input type="checkbox"/>

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History of Complaints & Visits

June 2015 – Licensing Enforcement sent an advice letter to the premises reminding the club to ensure compliance with the club rules, and about not smoking indoors, following a complaint.

September 2016 – The Licensing Team received a query from a local resident with regards to the following:

- Whether the club premises certificate was suspended following late annual fee payment in July 2016;
- Whether club gaming machines were permitted.

The Licensing Team discussed the matter with the club, and it became apparent that the annual fee reminder letter was sent to a Club Secretary, who unfortunately is now deceased. The annual fee was sent to the new Club Secretary, which was then paid, along with the fee and permit application to allow gaming machines in the club. In light of all these circumstances, it was not considered necessary to pursue formal action for any licensable activities that may have been provided during the suspension period.

The same complainant raised a number of other non-licensing related issues, for example, Companies House information, food registrations, risk assessments. It was not felt that was needed by any team following investigations in response to this complaint.

March 2017 – Various council teams including Licensing Enforcement were included in an MEQ complaint on behalf of a local resident, alleging that last summer, new groups were using the club and playing loud music which was disturbing a local resident. Licensing Enforcement made the club aware, namely Linda Marsh, Secretary and Colin Corbett, Chairman who advised that perhaps once a month, no more than a dozen people would bring their own instruments to have a jam jazz session. No one is paid to play. Under the Live Music Act, this activity is not licensable. Mr Corbett advised that these sessions take place indoors, on a warm day the doors are opened, but are always shut by 9.30pm. Mr Corbett carries out sound checks, he was advised to record the regular sound checks from perimeter of closest resident's property.

In response to this complaint, officers carried out an evening spot check at the premises on Saturday 15 April. A noise assessment was carried out in the surrounding area of the premises, and no noise issues were observed. The officers entered the premises and no problems were identified inside. On updating the complainant, the resident advised that he had not experienced any noise issues this year. This complainant was advised to use the Out of Hours noise service should any noise nuisance be experienced again.

18 & 19 April 2017 – the Licensing Team had dialogue via email from Mrs Laurie Bradford, advising of the newly elected committee and rules. **See Appendix LA1 and LA2.** Licensing Enforcement discussed the new club rules and committee details sent to Licensing with Mr Corbett, who advised this submission is not valid: there is another group trying to unlawfully set up a new committee at the club. He reported that this new group are collecting membership fees outside of the lawful routes, amongst other several ongoing issues, including malicious behaviour. Mr Corbett advised that an arbitration meeting was to take place later that month in order to get these issues resolved. In light of this information and more from the Parks Team in relation to the ongoing arbitration process, the new committee and rules were not accepted. The Licensing Team await an update following the outcome of the arbitration from Parks.

May 2017 – the Licensing Team were made aware that the Parks Team were investigating allegations reported relating to management issues at the club, the club being in debt, and that meetings were not conducted as per the rule book. According to Enfield Council's Parks Team the Council has tried to support the club in gaining an outcome to the ongoing issues. A third party, The National Allotment Society were apparently asked to assist but this was not welcomed or engaged with by either party.

It appears that there are two bodies stating that they are PEDSA. Between them they must gain a legal conclusion to this matter.

06/07/17 - The internal politics of the club are not a matter for the Licensing Authority. However, following the submission of this review application a letter was sent to the Club Secretary asking for evidence to demonstrate that the club still meets the 'qualifying club' criteria. **See Appendix LA3.**

17/07/17 – A letter of response and supporting documents were received. **See Appendix LA4.**

The club were asked to complete a new declaration form. Clubs who are registered under the Co-operative and Community Benefit Societies Act 2014 only need to complete section 1 of the declaration.

The Declaration asks for the Club Rule number that demonstrates compliance with certain conditions. The conditions, information received from the Club and action required is shown in the following table:

Requirement	Evidence	Action Required
The declaration requests the relevant club rule number be provided to demonstrate compliance with Condition 1 in section 62(2) of the Licensing Act 2003. Condition 1 is that under the rules of the club persons may not— (a) be admitted to membership, or (b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.	The club have stated that there is 'No specific rule number, rules registered in 1990 prior to the Licensing Act 2003. Our Policy / procedure for membership applications adhere to the requirements under s.62 (2) of Licensing Act 2003'.	Club Rules must be updated to include a rule specifically relating to this membership requirement.
The declaration requests the relevant club rule number be provided to demonstrate compliance with Condition 2 in section 62(3) of the Licensing Act 2003. Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.	The club have stated that there is 'No mechanism for becoming a member without Nomination / application'. However no rule number has been provided.	Club Rules must be updated to include a rule specifically relating to this membership requirement.
The next section of the declaration relates to Condition 4 in section 62(5) of the Licensing Act 2003 which states:	Evidence provided in the form of a list of those members present at the AGM that took place on 11 th June 2017	None, condition met.

Annex 8

(5) Condition 4 is that the club has at least 25 members.	showing over 25 members present.	
The next section of the declaration relates to the supply of alcohol.	The club has ticked the box showing that it does wish to supply alcohol to members and guests. It has also ticked the box confirming 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.	N/A
The next section asks those clubs who do want to supply alcohol, for the relevant club rule number demonstrating 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.	The club have stated N/A see attached cover letter. The covering letter states that orders and purchases of alcohol from the suppliers are arranged and signed for by the Head Barman Mr Colin Corbett who is also the Chairman of the current committee and is over the age of 18. They have advised that he was elected as Chairman on 11 th June 2017 and have advised the Licensing Authority of his membership number. Later in the letter it states that the association is not tied to any particular supplier and that the committee make decisions based on what is going to be cost effective. However no rule number has been provided.	Club Rules must be updated to include a rule specifically relating to the purchase and supply of alcohol and whether it is under the control of the members or of a committee appointed by the members.

Although the club claims to meet the requirements in practice, these procedures and restrictions are not set out clearly as rules of the Club.

The Licensing Authority accepts that the rules were probably written prior to the introduction of the Licensing Act 2003 however the Act came into force almost 12 years ago. As this is the first time this has come to the attention of the Licensing Authority advice has been given to the Club stating that the Club Rules need to be updated to reflect the requirements of the current legislation.

The Licensing Authority also recommends that the membership application form be updated to make the legal requirements clear to those applying for membership.

The Club have been given six weeks to update and submit the Club Rules.

The Club was also asked to provide evidence to demonstrate that they are established and conducted in 'good faith'. Detailed in the table below is what was requested, what was provided and any further action required:

Annex 8

Requirement	Evidence	Action Required
The books of account and any other records kept to ensure the accuracy of the financial dealings of the club from 2014 to date.	2014 and 2015 account provided. 2016 accounts still being finalised	Submit 2016 accounts when finalised.
The minutes form the last 3 Annual General Meetings	2014, 2017 provided. The 2016 AGM was apparently postponed because of the issues getting the account and also at the request of the National Allotment Society who intervened to arbitrate.	2015 missing from bundle – to be supplied by club.
The names of all Committee Members their roles, and date of election.	Election - 11 th June 2017 AGM – name and most positions provided – not clear who the treasurer / Auditor is. Rules appear to say there needs to be a named Auditor. Appear to have been elected without a vote as only people nominated.	Details of treasurer and auditor to be provided.
Copies of Committee Meeting Minutes for the last 18 months.	Provided from Dec 2015, Jan 2016, March – Sept 2016	January minutes say there was to be a meeting in February 2016 but these have not been supplied. The minutes for 10 th March 2016 do not appear to be a complete set – only three pages received and end of meeting not referred to or date of next meeting given as per other minutes. Missing set and pages to be provided along with any minutes for Committee meetings from Sept 2016 to date.
A copy of the club constitution	No separate document – same as rule book. Rules set out the aims / objective of the club	N/A
A copy of the up-to-date club rules	Rule book provided, unable to read page 6 as print unclear.	Rule book to be updated within 6 week deadline to comply with Licensing Act 2003. Rule book to be complied with. Clear page 6 to be provided in the meantime.
Details of any restrictions on the clubs freedom to purchase	The club is apparently not tied to any one supplier and the committee decides who to	N/A

alcohol, who makes commercial decision on behalf of the club and what the governance arrangements are.	buy from based on what is cost effective.	
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The Club have been asked to provide this information by Monday 31st July 2017.

21.07.17 - A further letter has been sent to the Secretary of the Club – **See Appendix LA5.**

Information in the Review

The review makes reference to the Insolvency Act 1986. However the term insolvency is generally used for companies formed under the Companies Act 2006. The club was not formed under this legislation and is not registered with Companies House.

This club is registered with the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 which replaced the Industrial and Provident Societies Act 1965 when it was repealed.

Both the Act and the Clubs own rules require that accounts be audited. To date no evidence has been seen to show that any resolution has been passed by the club to disapply this requirement. Even if it had, which is apparently permitted by the Act this would still be going against the current rules of the club.

The review applicant claims that the club is not sharing the financial accounts with members yet has provided copies of accounts from 2011 to 2016. It is not clear how these accounts were obtained if not from the Club Committee. As to whether or not the accounts are accurate the Licensing Authority is unable to comment, having no involvement in the running of the club. Whether the club runs at a profit or a loss is not a matter for the Licensing Authority.

The accounts supplied by the review applicant show a column for 'Gaming Machines, Pool Table' going back to 2011 yet the Club Machine Permit was only issued in 2016. No detail of Machine Game Duty is shown on the accounts.

Public Nuisance

Public Nuisance matters include noise, odour, general disturbance, litter, antisocial behaviour, light pollution and all the kinds of issues that can affect occupiers near licensed premises. However the matters referred to in this review fit better under the Crime and Disorder category and they do not appear to be affecting the 'public' rather just members of the club.

The Prevention of Crime and Disorder

If the Club fails to comply with the requirements of the Licensing Act 2003 offences are committed.

In relation to the calls made to the police the Licensing Authority is not in a positions to comment as to who was at fault having not been involved in these matters.

Conclusion

This is a particularly complicated case as there two bodies stating that they are PEDSA. It is not for the Licensing Authority to mediate between them.

Evidence suggests that Ponders End Smallholders Association is not complying with its own Club Rules and that the current rules do not meet the requirements of the Licensing Act 2003.

Should the Rules be updated to the satisfaction of the Licensing Authority within the 6 week deadline provided and proof of compliance with the rules be provided then the Licensing Authority will be satisfied that the club still meets the requirements of a 'qualifying club' and would withdraw this representation.

As an alternative the Club may wish to surrender the Club Premises Certificate and instead apply for a Premises Licence in which case there would be no requirement for them to demonstrate that they meet the qualifying club criteria.

I reserve the right to provide further information to support this representation.

Duly Authorised: Charlotte Palmer, Licensing Enforcement Officer

Contact: charlotte.palmer@enfield.gov.uk

Signed:



Date: 21/07/2017