

Annex 3

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I **Charlotte Palmer Senior Licensing Enforcement Officer**

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Ponders End and District Smallholders Association 82A Church Road	
Post town Enfield	Post code (if known) EN3 4NU

Name of premises licence holder or club holding club premises certificate (if known) Ponders End and District Smallholders Association
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Number of premises licence or club premises certificate (if known) LN/200600378

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Charlotte Palmer
Licensing Authority
London Borough of Enfield
PO Box 57
Civic Centre
Silver Street
EN1 3XH

Telephone number: 0208 132 2004

E-mail address: charlotte.palmer@enfield.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review: (please read guidance note 1)

Enfield Licensing Authority is seeking a review of the club premises certificate on the grounds that the club no longer meets the qualifying club criteria.

This review is primarily based on the prevention of crime and disorder licensing objective. **The review application is to revoke the club premises certificate in its entirety.**

Background:

The club premises certificate for this club has been reviewed before. A review was submitted on 23/06/17 by Mr Bill Haydes. The hearing took place on 16/08/17. Over 2 years later issues raised in that review have still not been resolved. As way of background that review application is enclosed as **Appendix A**. The decision notice is enclosed as **Appendix B** and the minutes from the hearing are enclosed as **Appendix C**. The full hearing bundle (over 600 pages) can be viewed on Enfield Council's website via the following link:

<http://governance.enfield.gov.uk/mgAi.aspx?ID=41243#mgDocuments>

History since the previous review:

29/08/17 – New Club Rules submitted dated 27/08/17 – rules have been amended in line with review requirements.

26/06/18 - Letter from complainant asking if 2016 accounts and updated rule book had been submitted.

24/07/18 – An Officer (CPX) checked the FCA Mutual Public Register. 2016/2017 accounts not shown and updated rules not submitted. Email sent to club asking for 2016 accounts to be provided by 27/07/18.

31/07/18 – Email received from club advising accounts nearly finalised but issue with individuals withholding documents.

16/10/18 - Letter from complainant asking if 2016 accounts and updated rule book had been submitted.

17/10/18 – Email sent to club asking for 2016 accounts to be provided. Response received from club agreeing to chase up accounts.

07/11/18 – Email sent to club chasing up 2016 accounts. Response received from club agreeing to chase up accounts.

16/08/19 – Letter from complainant asking if 2016 accounts and updated rule book had been submitted.

20/08/19 – An officers (CPX) checked the FCA Mutual Public Register accounts for 2016, 2017, 2018 not shown. Email sent to club requesting accounts by 31/08/19.

21/08/19 – Complaint received alleging that the club is being operated for the sole benefit of Ms L.Marsh, her son Mr R.Kemp, and their close friends and family members. Concern raised over the lack of published accounts meaning members have no way to check the financial arrangements put in place by Ms Marsh and Mr Kemp. It is also alleged that they are subletting part of the club out to a third party – possibly a charity – details of which have apparently been withheld from members and no members vote was held on this decision. A further concern raised was that the alleged charity could not be found by the complainant on the Charities Register. It is alleged that Mr Kemp has appointed himself as Chairman of the Association and that he has also appointed a new committee, made up solely of his friends and family with none of these decisions being put to a members' vote at an AGM. It is also alleged that those appointed have not been members of the club long enough to be voted on to the committee (in breach of the club rule 24). The complainant advised that requests by members for an AGM have been ignored.

27/08/19 – Email from club (Secretary Lin Marsh) explaining due to a private matter that occurred in February 2018 the accounts are still not finalised.

27/08/19 – Email to club (LM) stressing information was requested 2 years ago, recommending the rest of the committee be asked to assist and requesting the information by the end of September 2019.

30/09/19 – Email sent (EVG) to club (LM) reminding of the deadline given.

02/10/19 – Email from club (LM) requesting a meeting. Officer (EVG) suggested Tuesday 15 October. LM advised she works Tuesday to Friday 8.30 to 4.30. Meeting later arranged for Monday 21st October 2019.

18/10/19 - Letter from complainant asking if 2016 accounts had been submitted.

21/10/19 – Lin Marsh and Maria Swords attended a meeting with a Senior Licensing Enforcement Officer (CPX). During the meeting Lin Marsh and Maria Swords were asked who the committee members are. The following details were given: Ricky Kemp who Lin said is a long standing member of the club has been the Acting Chair since May 2017. Linda Marsh – Secretary, Treasurer – none (conflicts with Club Rule 31), Operations Co-ordinator – none, Fundraising Co-ordinator - Maria Swords (member for 12 years, later in an email listed as Assistant Secretary, Volunteer Co-ordinator – Tina Kemp (later listed as Entertainment), Assistant to the Committee - Brenda Lennon (later listed as Bar and Finance) and Jenny, Ground Steward – Fabian James, Trading Hut Steward - Jenny (surname 'Page' later provided). (The name Vicky Ginder was also later provided in relation to Entertainment). Lin Marsh was asked if any of the committee members were related and advised that Ricky

Kemp and Tina Kemp were brother and sister. When asked if there were any other family connections, she said no.

When asked about the missing 2016 accounts and subsequent 2017 and 2018 accounts the officer was told that there had been a fire at the accountants office and that a previous committee member had withheld paperwork from them making it difficult to finalise the accounts. Lin Marsh advised that as of May 2019 they were in control of the all of the finances and that they had raised the issue with members at a meeting and that members had requested meeting every three months. When asked when the last AGM was the officer was told that there was no AGM in June 2019. The committee members could not remember if there was one in 2018 or not.

Rule 19 states:

Ordinary General Meetings – The Annual General Meeting, at which the accounts shall be submitted and the officers for the ensuing year elected, and other Ordinary General Meeting shall be held at such times as the Committee or a General Meeting shall determine.

Although the committee can decide when the AGM will take place it is called an 'Annual' General meeting as it has to take place every year. The club does not appear to be complying with its own rules.

When asked whether any part of the club was being sublet the officer was advised that a plot had been given to a lady to use as a sensory garden for the autistic son of a member and that the same lady used a shed for a charity called 'Sonny the Snail' Lin Marsh advised that the club gained no money from this but that it had been voted on and agreed by members. She was asked to provide the charity details and the minutes from the meeting when this was decided. (To date these have not been provided).

The officer was advised that there was going to be an emergency meeting on Sunday 27th October 2019 and that there had been another one three months before that.

When asked for the name of the accountant the name Mr Mandra was given. The officer asked for his contact details to be sent to them (to date, not received).

Lin Marsh was given a letter listing information the officer wanted her to supply them with by 11th November 2019 (the letter stated 4th November originally, but Lin Marsh requested a week's extension during the meeting which was agreed by the officer. A copy of the letter is attached as **Appendix D**.

11/11/19 – Two emails were received from Lin Marsh in response to the letter dated 21 October 2019. Detailed below are the points raised in the officer's letter followed by details of the response provided and officers comments in relation to each point.

The email from the club can be found as **Appendix E, F and G**.

- Details of the membership application process – including any restrictions relating to access to the premises, nomination of members etc. **Information has been provided but no mention was made as to whether membership starts straight away or if there is a certain length of time that needs to elapse after applying and before becoming a member. This issue was addressed in the updated rule book following the previous review (information detailed below brings in to question which version of the rule book if any is currently being followed).**

- Evidence that the club has at least 25 members. **The document supplied is a list of people who have not renewed their membership with the association and does not prove that the club has at least 25 members. Copy of 'Subs for Banking' were also submitted which list names but is too small to read' It is unclear if this was submitted as proof of membership numbers or accounts.**
- Evidence that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club. **Lin Marsh advised that the clubhouse is the sole alcohol licence holder. This does not demonstrate that the alcohol is only supplied to members rather than member of the public who have walked in off the street to purchase alcohol without being members. The club cannot be hired out to the public and only members and their bona fide guests can be supplied with alcohol.**
- What is the nature of the club? (i.e. what is the common thread that links members – are they all allotment holders?) **This information has been provided.**
- Evidence that alcohol is only purchased by a committee who are members, over 18 years old and elected to that committee – ie names and membership number, evidence they are over 18 years old, evidence showing when and how they were elected. **Two invoices have been provided one relating to Hills Prospect in the name of Ponders End Smallholders Association and the other relating to Marco and in the name of Mrs L C Marsh. It was also advised that all drinks are purchased by Linda Marsh or Maria Swords and the name of another supplier was also provided.**
- The books of accounts and any other records kept to ensure the accuracy of the financial dealings of the club from 2016 to date. **During the meeting on 21st October 2019 the officer was advised that only accounts from May 2019 were available as the committee had not been provided with paperwork prior to that date from the previous Chairman. Seven documents were supplied which appear to be lists of 'Subs for Banking' from January and February 2019. These documents were sent via email and it is not possible to zoom in on the pages without blurring the image. This is not sufficient evidence of accounts and does not take in to consideration outgoings such as rates, water, power, phonedlines, bar stock etc. The issue of missing accounts was raised in 2017 during the last review.**
- The minutes from the last 3 Annual General Meetings. **Information included in the previous review hearing paperwork makes reference to an AGM taking place on 11/06/17 when 10 Committee members were voted in. It is expected that the club should have been able to provide minutes for an AGM in June 2018 and June 2019. These have not been provided. There is therefore no evidence to date to prove that the current committee were voted in by the members of the club.**
- The names of all Committee Members their roles, and date of election. **The names and roles have been provided but no evidence to show when each was elected. This should have taken place during the AGM. The Licensing Authority would also like evidence to see when each member of the committee became a member of the club. (Appendix F)**

- Copies of Committee Meeting Minutes for the last 18 months. **These have not been provided.**
- A copy of the club constitution. **This has not been provided. It may be that there is just a rule book and no club constitution.**
- A copy of the up-to-date club rules. **The rule book that was provided is dated 1990. During the previous review the rule book had to be updated to include conditions about membership restrictions and the purchase and supply of alcohol. As a result of that review the Licensing Authority was provided with a new updated version of the rules dated 27/08/17. The Licensing Authority is unsure why the 1990 rule book has been provided now and which is currently being used by the club. (Appendix G)**
- Details of any restrictions on the clubs freedom to purchase alcohol, who makes commercial decision on behalf of the club and what the governance arrangements are. **This issue was raised during the previous review and is part of the reason why the 1990 rules needed to be updated.**

In the officer's letter it was mentioned that it has been alleged that part of the club is being sublet to a third party, possibly a charity. The officers asked for confirmation as to whether or not this is the case and if it is, to provide details of the third party including the registered charity number if there is one. The officer also asked for the minutes from the meeting when this activity was agreed to be provided, how this was communicated to the members, what the charges are and what happens to any income generated by the club from sub-letting part of the club. **During the meeting on 21st October 2019 reference was made to a charity called 'Sonny the Snail' but no formal response in relation to the charity details, minutes etc. as mentioned above have been received.**

02/12/19 – Email received from Lin Marsh. Unfortunately, the message had been written in the subject heading so only the following could be seen:

'Good day, Charlotte it's lin Marsh from ponders end small holder I have sent you all the information I have at this time also I have been onto the people of the charity we have on site for their on and are waiting on this I have also been on to the F...'
(Appendix H)

An officer (CPX) sent Lin Marsh an email advising of the issue with the emailing and requesting it be resent. No response was received.

12/12/19 – A further email was sent to Lin Marsh asking for the email to be resent and also requesting the contact detail of the club's accountant. To date no response has been received.

16/12/19 – An officer (CPX) checked the FCA Mutual Public Register and could see no evidence of 2016, 2017, 2018 accounts or updated rules having been submitted.

16/12/19 – An officer (CPX) has checked the Charities Register and could find no reference to a charity called 'Sonny the Snail'. However a general internet search brought up results for 'Sonny the Snail Sensory Garden and Allotment' a Community Interest Company (CIC) - private company limited by guarantee without share capital – CIC No. 12342772. The company address details are those of the club. The company was incorporate on 02/12/19. Details of the company can be found attached as **Appendix I.**

16/12/19 – An Officer (CPX) emailed Property Services to see if the club has or needs permission to sublet part of the site to a third party.

Additional Information:

Club Rule 37(a) states

‘Every year not later than the date provided for the in 1965 Act the secretary shall send to the Registrar the annual return in the form prescribed by the Chief Registrar of Friendly Societies relating to it affairs for the period required by the 1965 Act to be included in the return together with:-

- i. a copy of each balance sheet made during that period.

The Society shall supply free of charge to every member on his/her application a copy of the last annual return of the society for the time being together with a copy of (the) balance sheet contained in the return.

The society shall keep a copy of the last balance sheet for the time being at the premises of the registered office.

The club is currently failing to comply with the it’s own rules.

Conclusion:

The club has been asked to provide evidence to demonstrate that it meets the qualifying club criteria and that it is established and run in good faith and has failed to do so. Issues raised over two years ago have still not be resolved even after a previous review. The Licensing Authority has lost confidence in those running the club.

The Licensing Authotuty is of the opinion that the club has ceased to be a ‘quaifying club’ and that it is no loger being conducted in ‘good faith’.

The Licensing Authourity therefore has no choice but to recommned that the Club Premises Certificate be withdrawn under s.90 of the Licensing Act 2003. If withdrawn the Club Machine Permit (LN/201600496) will lapse meaning any assocaitte gaming machines shall have to be removed from the club.

Suspension of Licence:	N
Revocation of Licence:	Y
Recommended period of suspension (max 3 months):	

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

If you have made representations before relating to these premises please state what they were and when you made them

A review of the CPC was submitted on 23/06/17 and representations were submitted by the Licensing Authority.

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature: xxxxxxxx

Date: 17th December 2019

Capacity: Senior Licensing Enforcement Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.