

IP2 Representation

Review of the premises licence /club premises certificate (under s51(3),s.87(3) or s.167 to the Licensing Act 2003 in respect of the above premises .

Re: Ponders End Allotment and Smallholders Association Ltd ("PEDSA LTD") 82A Church Road , Enfield ,EN3 4NU

This application is made further to (Report 40.48, meeting of Enfield Sub Committee Wednesday 16 August 2017 (item 128) 10.00 am Application for review of Club Premises Certificate.

The Sub Committee recommended resolutions must be implemented by PEDSA Ltd (as per resolutions 16/07/2017) for the benefit of members of PEDSA LTD .

The recommendations of the Sub Committee were as follows :-

- a) Audited Annual Returns year end 2016 for PEDSA LTD for the benefit of the members,
- b) New Revised Rule Book for the benefit of the members .

The Licensing Sub Committee stated that these recommendations are mandatory and must be implemented within six weeks by the elected management committee for PEDSA LTD.

Unfortunately PEDSA LTD has failed to comply with these mandatory recommendations from Enfield Council Sub Committee.

In order to hold a Premises Certificate PEDSA LTD must be able to prove that they are a qualifying club under the Licensing Act 2003.

One of the conditions that must be satisfied is that the club must be established and conducted in good faith.

The Sub Committee requested the following :-

- a) The books of accounts and any other records kept to ensure the accuracy of the financial dealings

of the club from 2014 to date.

- b) The minutes from the last 3 Annual General Meeting
- c) The names of all Committee Members ,their roles and date of election
- d) Copies of the Committee Meetings for the last 18 months
- e) Copy of the Club Constitution
- f) Copy of the up to date rules
- g) What is the nature of the club ? tenants of the allotment full members of the association and associate members of the club house
- h) Details of the membership application process including any restrictions relating to access to the premises, nominations of members
- i) arbitration processes of the association
- j) Details of any restrictions on the club house freedom to purchase alcohol , who makes the commercial decision on behalf of the club and the governance are.

On 16th August 2019 under The Freedom of Information Act I [REDACTED] requested from Enfield Council the following:

- a) A Revised copy of Complete Amendment of the Rule Book for PEDSA LTD
- b) Audited Annual Returns for 2016

I received an attachment from Enfield Council in response to my request (number fo1 652)

"a) A Revised Complete Amendment of the Rule Book for PEDSA LTD (16.08.2017

(The Rule Book is attached (Rule Book 27.08.2017)

b) Audited Annual Returns for 206 year . The does not currently hold this copy I recommend you approach the club directly."

A quick review of the New Revised Rule Book (Rule Book -27.08.2017) which was attached to the council's reply refers to the Industrial and Provident Societies Act 1965 which is not relevant to PEDSA LTD (which is subject to the Co-operative and Community Benefit Societies Act 2014 (The " Act")) . PEDSA LTD is a registered society with the Financial Conduct Authority ("FCA"). The Community Benefit Societies replaces all the 1965 Act(or its predecessors) which were effectively on 1st August 2014.

To remain registered a society must submit their Annual Returns and Audited Accounts in accordance with the 2014 Act . A society must also continue to meet their conditions for registration,

A society must under the FCA guidelines use a Complete Amendment of Rules Form to register under the 2014 Act.

Under the 2014 Act ("The Act") s16.(1) any amendment of a society rule is not valid until the amendment is registered under the 2014 Act.

((under s16 (2)a, s16 (2) and s.16 (4) (a) of the 2014 Act, if the FCA is satisfied that an amendment is not contrary to the provision of the Act it must:-

a) register the amendment .and

b) give the society and acknowledgment of the registration bearing the FCA seal

The Registered Committee of PEDSA LTD was under an obligation to send the document to the FCA for registration of the New PEDSA LTD Revised Rule Book (PEDSA) and give the society an acknowledgement of the registration giving the seal.

The rules in PEDSA Rule Book have not been updated to comply with the 2014 Act in particular , the PEDSA Rule Book 27.08.2017:-

a) Does not include a rule specifically relating to the Amendment of Rules requiring in s16 (1) of the 2014 Act.

The above breaches demonstrates that PEDSA LTD system of governance is entirely inadequate .

PEDSA LTD has therefore ceased to be a qualifying registered society.

It is my understanding that failing to send (Rule Book -27.08.2027 to the FCA ,The Registered Elected Committee of PEDSA LTD has committed an offence under the 2014 Act (s19) .

Provision of rules with intent to mislead or defraud to comply with condition 1) of (s19(1)(a) (b) s19 .(2).

The Register Committee has also committed an offence under the 2014 Act by failing to take reasonable steps to secure that ;- s80 (4)a.s80 (4) b. (4) c. of the 2014 Act has been complied with.

I have a number of concerns relating to the failure of PEDSA LTD including ,regarding the election of the Secretary and Treasurer ,and (2) to provide proper accounts in particular for the 2016 Annual Audited Accounts requests, despite Enfield Licensing office Sub Committee resolutions on 16.08.107 The above breaches demonstrates that PEDSA LTD has ceased to be qualifying club.

Allegations of incident of Crime and/or disorder at the premises/club premises

In addition , PEDSA LTD has failed to pay its annual Club Premises Certificate fee, under s.92 of the Licensing Act 2003

Pursuant to s.92 (1) of the Licensing Act 2003 , the licensing authority must suspend a club premises certificate ,if the holder of the certificate fails to pay an annual fee that has become due under s92(2).

The " grace period' under s.92 (8) of the Licensing Act 2003 has passed

PEDSA LTD'S club premises certificate must be suspended.

Finally , I see from the Licensing Register held by Enfield London Borough of Enfield (copy attached for case reference) that PEDSA LTD'S Licence ON 22 June 2019 .

The result must be that PEDSA LTD has ceased to be a qualifying **club**