

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 26 FEBRUARY 2020**

COUNCILLORS

PRESENT (Chair) Mahmut Aksanoglu, Christine Hamilton and Jim Steven

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Senior Licensing Enforcement Officer), Dina Boodhun (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: 2 representatives on behalf of Interested Parties and 6 observers
5 representatives on behalf of Ponders End Smallholders Association

483

WELCOME AND APOLOGIES FOR ABSENCE

Councillor Aksanoglu as Chair welcomed all those present and explained the order of the meeting.

484

DECLARATION OF INTERESTS

NOTED there were no declarations of interest.

485

PONDERS END SMALLHOLDERS ASSOCIATION, 82A CHURCH ROAD, ENFIELD EN3 4NU (REPORT NO. 209)

RECEIVED the application made by the Licensing Authority for a review of the Club Premises Certificate (LN/200600378) held by Ponders End Smallholders Association at the premises known as and situated at Ponders End Smallholders Association, 82A Church Road, Enfield, EN3 4NU.

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:

- a. This was a review application by the Licensing Authority for the club premises certificate held by Ponders End Smallholders Association, known as PEDSA.

LICENSING SUB-COMMITTEE - 26.2.2020

- b. PEDSA was a long-established allotments society registered members club, which placed separate obligations on the club in respect of club rules and constitution via the Financial Service Authority (FSA).
 - c. Club premises certificates were only made available under the legislation to qualifying members clubs, and the club activities may be carried on for club members, bona fide guests or associate club members and their guests.
 - d. The legislation allowed clubs to operate licensable club activities without a designated premises supervisor or personal licence holder(s).
 - e. No general public licensable activities may take place reliant on a club premises certificate as these would need to be authorised by means of a full premises licence or else temporary event notices.
 - f. The current club premises certificate permitted 24 hour opening and recorded music, late night refreshment, and supply of alcohol (on and off supplies) Sunday 12:00 to 22:30, Monday to Saturday 10:00 to 23:00.
 - g. The Licensing Authority and Enforcement Team had submitted the review in respect of the prevention of crime and disorder licensing objective. The Licensing Authority had lost confidence that the club was being run in line with the legal requirements and had ceased to be a qualifying club.
 - h. The Licensing Authority considered that it was now appropriate, for the promotion of the licensing objectives, to withdraw the club premises certificate in its entirety.
 - i. No representations were received on behalf of the Responsible Authorities.
 - j. Three representations were received from local residents supporting the review application, referred to as IP1 to IP3, and set out in Annex 4 of the report. IP1 and IP3 were unable to attend the meeting, but IP2 was in attendance and represented by Mr Dennis Defur.
 - k. On behalf of PEDSA, Ms Linda Marsh was in attendance and Ms Maria Swords would be speaking on her behalf.
2. The statement of Charlotte Palmer, Senior Licensing Enforcement Officer, on behalf of the Licensing Authority, including:
- a. The review was brought on the grounds of prevention of crime and disorder, because the Licensing Authority did not believe that the club was being run in line with the legislative requirements.
 - b. A club premises certificate was only available to qualifying clubs, meeting the criteria that it is established and run in good faith. The Licensing Authority was of the opinion that the club had ceased to be a qualifying club and that it was no longer being conducted in good faith, and that the licensing objective was being undermined.
 - c. The club was not meeting requirements in respect of accounts, its committee, or club rules.

LICENSING SUB-COMMITTEE - 26.2.2020

- d. Section 63 of the Licensing Act 2003, as set out on page 5 of the agenda report set out details in respect of determining whether a club was established and conducted in good faith.
- e. Missing accounts in 2016 resulted in a previous review hearing on 16/08/17. Issues raised at that time had still not been resolved. The Licensing Authority had contacted the club numerous times regarding submission of accounts, but they had not been provided to the Licensing Authority, the FCA, or to the club members. Several excuses had been given, including that documents had been returned in the post. Officers were told there had been a fire at the accountants office, that there were difficulties in communication, and that mail had been intercepted and returned, and that a previous member had withheld paperwork. However, this was not a new issue, and there were now accounts outstanding for four years. Good record keeping was important to show that the club was run in good faith.
- f. Section 64 of the Licensing Act 2003 required that the purchase of alcohol for the club and the supply of alcohol by the club was managed by a committee, and set out how this should be run. In October 2019 the Licensing Authority requested copies of minutes for committee meetings for the last 18 months. To date these had not been provided and there was no evidence of compliance, or that committee members were elected by members of the club. There should be accurate records and voting. The lack of elections and AGM meetings had wider implications. The lease would end in 2020. The Council would require documentary evidence.
- g. The Licensing Authority was given an updated rulebook after the review in 2017, provided as Annex 2 to the report. Rule 19 advised that the accounts shall be submitted and the officers for the ensuing year elected at the Annual General Meeting (AGM). Historically the AGM had taken place in June. At a meeting on 21/10/19 she had been told there was no AGM in 2019 and it was not recalled if there had been one in 2018. The club was not following its own rules.
- h. When the current rulebook was requested, an old version from 1990 was submitted. It was therefore questioned which rules the club was using.
- i. Two and a half years after the review hearing there was still a confused situation at the club.
- j. Withdrawal of the club premises certificate would mean that the club would have to stop selling alcohol, late night refreshment, and regulated entertainment, and would have to remove the gaming machines.
- k. If the club could demonstrate that they were a qualifying club, they could apply for a new club premises certificate. This would involve meeting the criteria that it was established and run in good faith, and that it followed its own rules.
- l. The Licensing Authority considered that at present the prevention of crime and disorder licensing objective was being undermined, and that the club premises certificate should be withdrawn.

LICENSING SUB-COMMITTEE - 26.2.2020

3. The statement on behalf of the interested parties, including:
 - a. Since the review in August 2017 the club had failed in compliance and governance, and in respect of the FCA and its own rules.
 - b. Members had been dissatisfied with this group of people for bad management over many years. They had found it difficult to access the clubhouse and site.
 - c. Members were not aware of the financial state of the club, and were concerned about the accounts.
 - d. There had been no notification or vote involving plot holders in respect of use of part of the premises for the Sonny the Snail charity or their event advertised on FaceBook and other sites.
 - e. PEDSA was subject to the Co-operative and Community Benefit Societies Act 2014 and needed to meet its requirements, which it had not done. By its failure to send the rulebook to the FCA, PEDSA had committed an offence under the Act, and could be potentially misleading to the public.
 - f. Other concerns related to payment of fees to the Council, and to ongoing employment tribunal proceedings.
 - g. As the club had not complied with the regulations they had committed an offence and the club premises certificate should be suspended.

4. The statement by Maria Swords on behalf of PEDSA, including:
 - a. The issues were understood and not denied by the club, which had been lackadaisical with its paperwork.
 - b. She had been doing her best as assistant to Linda Marsh.
 - c. There were accusations of people not being let in the clubhouse, but if they had not paid, people could not be members. There had been slander and complaints.
 - d. She had brought more paperwork to the hearing, which she apologised had not been provided previously. They were short of time as they all worked, but they had tried their best.
 - e. Things had been difficult around holding an AGM but members had been asked their views in the clubhouse.
 - f. A direct debit was set up to pay the Council for everything, but the club was not receiving all the monies it should because of wayward people, and Linda had paid out of her own pocket to keep things going. As they were not plot holders, they could not go on to the plots, and some members did not know who to pay.
 - g. A lot of documentation had been sent to PEDSA's accountant Mr Mandra. There had been problems with paperwork being intercepted in the post, so a home address was now used.
 - h. Meetings were held every three months to let everybody know what was going on. It was acknowledged that the AGM was outstanding, but it was hoped to have an AGM this year.

LICENSING SUB-COMMITTEE - 26.2.2020

- i. Members had been asked for signatures / proof of membership, and asked if they wanted anyone else to take over running the club. They were just trying to save the club for the members who came in.
 - j. They did not sublet to anybody. Sonny the Snail was a charity who were accommodated for free, with nothing given or taken from them.
5. Maria Swords responded to questions as follows:
- a. In response to the Chair's queries about what measures had been taken by the club, it was advised that they had been trying to find the paperwork so that it could be submitted. A lot of documentation had been provided to their accountant this week and it was hoped to hold an AGM as soon as possible. They were trying to get things back in order so everybody could carry on. The genuine members wanted them to carry on with the club and that is what they were trying to do for them.
 - b. In response to interested parties' queries why things were not done around governance issues after the last review, it was advised that the committee members at the time did try but had not been successful. The committee members had changed and it was not easy to get information from people who had left. In addition, there were issues with the employment tribunal and conflict.
 - c. The Chair confirmed that the issue relating to non payment of fees to the Council had been resolved.
 - d. In response to queries from Charlotte Palmer, it was confirmed that there was no AGM in 2018 or 2019, as paperwork was unavailable as explained. It was confirmed that accounts since 2016 were still not available, but that it was hoped this would be rectified soon. It was thought that the club was still using the 2017 rulebook, but confirmed that this had not been sent to the FCA.
 - e. In response to Charlotte Palmer's queries regarding minutes of meetings relating to the decision to allow a plot to be used by a third party (Sonny the Snail charity), Ricky Kemp clarified that he had asked the committee, and because no money was taken and this was an up and coming charity, it was agreed they could have the plot. It was thought to be ok as there was also a plot for community use which had been similarly used for years. It was advised there had been meetings and that everyone was fine with this use, but it was confirmed there was no formal approval of a club decision, or minutes of meetings.
 - f. In response to Charlotte Palmer's query as to why no minutes had been submitted to her as requested, it was advised that some had been brought along to this hearing, but that the filing system was non-existent and they were not sure that they had everything, but they were doing their best.
 - g. In response to a query from interested parties as to whether more effort and time could have been put into better organisation, it was advised that the majority of committee members worked every day and they did not have much spare time. They did their best and held most things at

LICENSING SUB-COMMITTEE - 26.2.2020

weekends so people were given the opportunity to come in and sort things out. They collected money and held meetings at weekends. A lot of weekend time was spent trying to help the club.

6. The summary statement by Ellie Green, Principal Licensing Officer, that having heard from all of the parties it was for the Licensing Sub-Committee to consider the potential steps it may take, as set out in paragraph 4.14 of the report. Further guidance and policy was also set out in the report.
7. The summary statement of Charlotte Palmer, Senior Licensing Enforcement Officer, that there was currently a lack of transparency in everything the club did. There were no published accounts, no AGM, no meeting minutes. It was alleged that the committee was self-elected and run, and there had been no evidence to contradict that. There had been ample time to meet the criteria for a qualifying club. It was the Licensing Authority's opinion that the club premises certificate should be withdrawn.
8. The summary statement on behalf of the interested parties, that the club disregarded rules and regulations. The rulebook had not been sent to the FCA, and accounts had not been filed, in breach of legislation. It felt like the club was not ready to make a difference in their organisation and this was quite concerning. The licence should be suspended until everything was satisfactorily sorted out.
9. The summary statement on behalf of PEDSA, that they could not apologise enough. At the moment things were moving forward. The committee did not elect themselves. They were all volunteers and trying to keep the club going. The clubhouse was where everybody met. They were asking for the club to be able to carry on. They would be able to submit evidence every three months if that was required as they were getting on top of things. If the certificate was taken away, everyone would lose out including all their members and the club would dwindle away.

RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

LICENSING SUB-COMMITTEE - 26.2.2020

“The Licensing Sub-Committee has taken into consideration all the representations both written and oral by the parties, and has determined that the Licensing Authority’s application for a review of the Club Premises Certificate on the balance of probabilities has been satisfied on the grounds of the prevention of crime and disorder.

The Licensing Sub-Committee has decided that the club has ceased to be a ‘qualifying club’ and that it no longer is being conducted in good faith pursuant to Section 62 and 63 of the Licensing Act 2003.

Revoking the club’s Premises Certificate means that any licensable activities will not be permitted on the club’s premises.”

3. The Licensing Sub-Committee resolved that it considers the withdrawal of the Club Premises Certificate appropriate for the promotion of the licensing objectives. The Licensing Sub-Committee resolved to withdraw the certificate.