

**Agenda Item No: 1 - Summary of Report**

**Licence Reference 20/02032/LACPC**  
**Report To: LICENSING SUB – COMMITTEE**  
**(UNDER THE LICENSING ACT 2003)**

**Date: 23<sup>RD</sup> OCTOBER 2020**  
**Report Title: Marden Cricket and Hockey Club**

**Application for: To vary a club premises certificate under the Licensing Act 2003**

**Report Author: : Lorraine Neale**

- Summary:**
1. The Applicant – The Committee of Marden Cricket and Hockey Club
  2. Type of authorisation applied for: To vary a club premises certificate under the Licensing Act 2003..
  3. Proposed Licensable Activities and hours: ( Appendix 1)

		Current Hours		Hours: New Application	
B	Films	N/A	N/A	Mon-Thurs Fri Sat Sun	08:00-23:59 08:00-01:00 08:00-02:00 08:00-23:00
E	Live Music (Indoors & Outdoors)	Mon-Sun *NYE	18:00-23:00 19:00-02:00	Mon-Fri Sat & Sun NYE	No change 11:00-23:00 18:00-02:00
F	Recorded Music (Indoors & Outdoors)	Mon-Sun NYE	18:00-23:00 19:00-02:00	Mon-Sun NYE	09:00- 23:00 09:00-02:00
M	Supply of alcohol (On & Off the premises)	Mon-Sun NYE	11:00-23:00 11:00-03:00	Sun-Fri Sat NYE	No change 10:00- 23:00 No change
O	Opening Hours	Mon-Thurs Friday Saturday Sunday NYE	11:00-23:59 11:00-01:00 11:00-02:00 11:00-23:00 11:00-03:00	Mon-Thurs Friday Saturday Sunday NYE	08:00 - 23:59 08:00 - 01:00 08:00 - 02:00 08:00 - 23:00 08:00-03:00

\*NYE New Years Eve

Current Non Standard

Extended hours for up to 8 occasions a year, always on a Friday or Saturday.

Friday Occasions: Live Music 18:00 to 01:00, Recorded Music 18:00 to 01:00 and Supply of Alcohol 18:00 to 01:00

Saturday Occasions: Live Music 18:00 to 01:00, Recorded Music 18:00 to 01:00 and Supply of Alcohol 18:00 to 02:00

On New Year's Eve from 11.00 hours until 03.00 hours on New Year's Day

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<b>Affected Wards:</b>	<b>Marden and Yalding</b>
<b>Recommendations:</b>	<b>The Committee is asked to determine the application and decide whether to grant the club premises certificate.</b>
<b>Policy Overview:</b>	The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.
<b>Financial Implications:</b>	Costs associated with processing the application are taken from licensing fee income.
<b>Other Material Implications:</b>	<p><b>HUMAN RIGHTS:</b> In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “<b>responsible authorities</b>” and/or “<b>other persons</b>” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.</p> <p><b>LEGAL:</b> Under the Licensing Act 2003 the <b>Licensing Authority</b> has a duty to exercise licensing control of relevant premises.</p>
<b>Background Papers:</b>	Licensing Act 2003 DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended Maidstone Borough Council Statement of Licensing Policy
<b>Contacts:</b>	Mrs Lorraine Neale at: <a href="mailto:lorryneale@maidstone.gov.uk">lorryneale@maidstone.gov.uk</a> – tel: 01622 602528

## Agenda Item No. 1

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**Recommendations:** The Committee is asked to determine the application and decide whether to grant the club premises certificate.

**Policy Overview:** The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

**Financial Implications:** Costs associated with processing the application are taken from licensing fee income.

**Other Material Implications:** **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

**LEGAL:** Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

**Background Papers:** Licensing Act 2003  
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended  
Maidstone Borough Council Statement of Licensing Policy

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**Report Title:** Marden Cricket and Hockey Club

**Application to:** To vary a club premises certificate licence under the Licensing Act 2003. (Appendix A).

### Purpose of the Report

The report advises Members of an application for a club premises certificate to be granted under the Licensing Act 2003, made by The Committee of Marden Cricket and Hockey Club, in respect of the premises Marden Cricket and Hockey Club, Maidstone Road, Marden, Kent, TN12 9AG, Maidstone, (Appendix 1) in respect of which 9 objections have been received from other parties (Appendix 3).

### Issue to be Decided

1. Members are asked to determine whether to:
  - 1) grant as applied for
  - 2) grant with conditions
  - 3) exclude any licensable activity
  - 4) or reject the application

## **Background**

- 2 The relevant sections are Part 4 S71 -79 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:
  - The prevention of crime and disorder;
  - Public Safety
  - The prevention of public nuisance; and
  - The protection of children from harm
3. The application has been correctly advertised in the local press and notices displayed at the premises for the required period.
4. There are no representations received from responsible authorities.
5. There are 9 representations from other parties.
6. The table below illustrates the relevant representations which have been received

<b>Responsible Authority /Interested Party</b>	<b>Licensing Objective</b>	<b>Associated Documents</b>	<b>Appendix</b>
Fiona and Jason Kitchen 15 & 23/9	Public Nuisance	E-Mail	C
Mark Walker	Public Nuisance Public Safety	E-Mail	C
Duncan Shadbolt	Public Nuisance	E-Mail	C
Theresa Gibson	Public Nuisance Public Safety	E-Mail	C
Heidi Scott	Public Nuisance Public Safety	E-Mail	C
Paul Newton 16 & 25/9	Public Nuisance	E-Mail	C
Karen Lomas	Crime and Disorder Public Nuisance Public Safety	E-Mail	C
Mary Bartram	Crime and Disorder Public Nuisance Public Safety	E-Mail	C
Richard Carpenter	Public Nuisance	E-Mail	C

The objections are that the granting of a club premise certificate for the hours requested would impact considerably on nearby residents and cause additional noise pollution over an extended period. Also the extended hours could lead to an increase in drink driving in what is a relatively rural area which in turn impacts public safety due to the lack of footpaths in the vicinity of the site.

- 9. Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.;**
- 10. The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:**

**a) General – all four licensing objectives:**

The club is a members only sports club with access restricted to members and their guests and not open to the general public. The premises is fully secured and alarmed to protect stock in relation to alcohol. Staff are trained not to serve inebriated or abusive customers. The premises has no close neighbours and opportunities to cause a public nuisance are limited. Minors are permitted in the bar area, but staff are trained in Challenge 18 protocol. Staff are DBS checked through England Hockey or England Cricket Board.

**b) The prevention of crime and disorder:**

Premises are fully secured and alarmed to protect stock of alcohol.

CCTV in operation.

Cash secured in safe or off premises.

Those already inebriated are refused alcohol.

**c) Public Safety:**

The Club is not open to the public, only to members and their guests and therefore public safety is not an issue.

Hirer's of the facilities, visiting sports teams and their supporters are considered to be guests of the club.

**d) The prevention of public nuisance:**

The location of the premises on the edge of the village reduces the risk of any public nuisance.

Vehicles leaving the premises don't exit onto residential roads, no immediate neighbours.

CCTV and security measures in place to prevent theft and vandalism.

**e) The Protection of children from harm:**

Staff members are DBS checked. Minors are permitted in the bar area and the appropriate safety measures taken. The bar staff operate Challenge 18 protocol. We also have child Welfare Officers in place.

On the 20/10/2020 an e-mail was received from Mr Paul Newton suggesting a compromise to the hours for licensable activities. He suggested films 18:00 – 23:00 every day, 5 events per year. Live & recorded music 18:00 – 23:00 every day. No change to alcohol or opening hours, the e-mail was forwarded to the applicant on 21/10/20 who in turn on 22/10/2020 offered the following as a compromise to Mr Newton, films 12:00 – 23:00 every day, indoors only. Live music 12:00 -23:00 every day, the applicant did not agree to amending the hours for recorded music. Mr Newton has not confirmed his agreement to the amendment and so his objection remains(Appendix 4)

On the 23/10/20 an email from the applicant was circulated to the objectors, it was received on the 20/10/20 but was not circulated immediately as the applicant wished to consider whether it needed amendment before circulation. To date no comments have been received from the objectors in response to the e-mail. (Appendix 5)

**11. Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003;**

**Chapters 6 (6.11 onwards) & 9 Premises Licences & Determining Applications**

**Chapter 10 Conditions NB: There is Home Office Supporting Guidance on Pools of Conditions but this is not statutory guidance.**

## **Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:**

Relevant policy statements contained in **the Licensing Authority's Statement of Licensing Policy:**

**17.9 – 17.15 Prevention of Crime and Disorder**

**17.16 – 17.18 Promotion of Public Safety**

**17.19 – 17.22 Prevention of Public Nuisance**

### **The Prevention of Crime and Disorder.**

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

### **Promotion of Public Safety**

The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

### **Prevention of Public Nuisance**

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.

- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

## **12. Options**

Legal options open to members -

- 1) Grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application.
- 2) grant the licence with MODIFIED conditions.
- 3) REJECT the whole or part of the application necessary for the promotions of the licensing objectives.

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

## **11. Implications Assessment**

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is

increased.

## 12. Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

## 13. Conclusion

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

## 14. List of Appendices

Appendix 1	Application Form
Appendix 2	Plan of Premises
Appendix 3	Other parties representation
Appendix 4	Mr Newton and applicant e-mail
Appendix 5	Applicant e-mail to other parties
Appendix 6	Plan of area
Appendix 7	Human Rights Articles
Appendix 8	Order of Proceedings

## 15. Appeals

**The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.**

Contact: Email:	<b>Senior Licensing Officer</b> <a href="mailto:lorryneale@maidstone.gov.uk">lorryneale@maidstone.gov.uk</a>
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