

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON FRIDAY 6 NOVEMBER 2020

Present: Councillors Brindle, Garten (Chairman) and Joy

37. APOLOGIES FOR ABSENCE

There were no apologies for absence.

38. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

39. ELECTION OF THE CHAIRMAN

RESOLVED: That Councillor Garten be elected as Chairman for the duration of the meeting.

40. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

41. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

42. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

43. APPLICATION TO VARY A CLUB PREMISE CERTIFICATE UNDER THE LICENSING ACT 2003 FOR MARDEN CRICKET AND HOCKEY CLUB, MAIDSTONE ROAD, MARDEN' KENT' TN12 9AG

The persons participating in the hearing were identified as follows:

Chairman – Councillor Garten
Committee Member – Councillor Brindle
Committee Member – Councillor Joy

Legal Advisor – Mr Robin Harris

Online Facilitator/Democratic Services Officer – Miss Oliviya Parfitt

Applicant – The Committee of Marden Cricket and Hockey Club, Jo Hayes

Witnesses to be called by the Applicant:

Charlotte Hope – Vice-Chairman of the Marden Cricket and Hockey Club

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant Messaging facility any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Sub-Committee agreed to proceed in the absence of any other parties and confirmed that they had read the papers.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The applicant's witness was invited to address the panel and referenced the significant growth in the club's membership since 2018, with the variation application submitted to better suit the club's business needs. The low membership cost was mentioned, with additional income generated through conducting sports-related events and renting the club room for low-key events. The showing of films would be to supplement the income generated, rather than to turn the venue into a night-time or entertainment venue. The change in opening hours was to provide refreshments to individuals whilst club matches were played prior to 11am.

Specific attention was drawn to the licensing objectives against which the objections had been received; public nuisance, crime and disorder and public safety. The witness argued that the variation application had been misunderstood, as earlier rather than later opening times had been requested and these were unlikely to negatively affect the licensing objectives.

The Legal Advisor highlighted that provided the necessary actions took place, variation from the order of proceedings was acceptable, in light of the witness having been called to speak first. Mr Harris summarised the

variation application and noted that no objections had been received from responsible authorities but that several objections had been received from local residents.

The Council as the Licensing Authority, the applicant and numerous objectors had conversed on potential draft conditions prior to the hearing, from which the applicant was advised to clarify the exact hours requested within the variation application to be decided by the panel. Mr Harris confirmed that the Sub-Committee would assess the application with the view to the promotion of the licensing objectives.

In response to a question from the panel, Mr Harris confirmed that opening hours were not a licensable activity, unless specifically related to a licensable activity. The applicant confirmed that the variation application was sought as applied for, but that they were willing to include that would be shown indoors only. In discussing the application, Mr Harris confirmed that live and recorded music hours were no longer licensable activities due to the Live Music Act 2012 as amended by the Legislative Reform (Entertainment Licensing) Order and Deregulation Act 2015 and were not required to appear on the club's licence. This was only applicable if the applicant were to have an audience greater than 500 people.

In response to questions from the panel, the applicant's witness confirmed that several of the objectors had been and were current club members. The sliding doors in front of the club room balcony could be closed to prevent any sound travelling, with the trees planted as necessitated by the planning permission currently too immature to provide an adequate sound barrier. The witness confirmed that communication of events occurred mainly through the club's members, but that they would be able to communicate this to the club's local neighbours.

At Mr Harris' request, the applicant re-confirmed that they amenable to accepting that films be shown between 12:00-23:00 hours daily, seven days a week, as a compromise with the local neighbours. In relation to live and recorded music, the witness confirmed that the venue had not had an audience of more than 500 people since the business's opening event. The witness confirmed that as they believed the opening hours were a licensable activity, they had been included within the variation application, despite no licensable activity to take place before 11am between Sunday to Friday and 10am on a Saturday. The groundsman and cleaners entered the premises early to prepare the grounds and venue. It was their intention to address the planning restrictions which they believed were designed for the construction of the venue.

In response to a question from the panel, Mr Harris confirmed that references to live and recorded music could be removed from the premises licence as they were no longer required due to the operation of the law, namely the Live Music Act 2012 (as amended). The applicant and witness both confirmed that they were happy for this to be removed.

The applicant was invited to make their closing statement, in which they directed the witness to address the panel. The witness re-referenced the

club's intention to adapt to the growth in membership and that there was no desire to become a large events venue or cinema.

The Chairman advised that the Sub-Committee would retire for deliberation with the Legal advisor present.

The Sub-Committee returned and the Chairman outlined the decision. The licence was to be granted with film showings permitted between 12:00-23:00 hours, seven days a week. The live and recorded music conditions on the existing licence would be removed, as they had been superseded by statutory omission. The extension of licensing hours for the supply of alcohol, from 10am rather than 11am on Saturday was granted, subject to the advisory that they may not be compliant with the premises planning permission. The club was recommended to engage with its local neighbours when any of the 8 late events as included within the existing licence.

The written decision would be provided within 5 working days and parties were reminded of the right to review a premises licence and the right of appeal to the Magistrates Court.

The meeting closed at 11.32 a.m.

RESOLVED: That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the Minutes.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No: 20/02032/LACPC

Applicant: The Committee of Marden Cricket and Hockey Club

Regarding Marden Cricket and Hockey Club, Maidstone Road,
Marden, Kent

Date(s) of hearing: 6th November 2020

Date of determination: 6th November 2020

Committee Members: [Chairman]: Councillor Garten
Councillor Joy
Councillor Brindle

Legal Advisor in attendance at hearing(s): Robin Harris, Team Leader (Contentious),
MKLS

Democratic Services Officer in attendance at hearing: Oliviya Parfitt

Senior Licensing Officer for application: Lorraine Neale

This was an application for:

- Variation Grant
 Provisional Statement Review Other

for a

- Premises Licence Club Premises Certificate Personal Licence
 Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Name: Jo Hayes – Club Secretary
- Legal or other representative: Charlotte Hope – Club Vice Chair (Witness)

Responsible Authorities

- None

Other Persons

- Written representations from the parties shown in the table at page 5 of the agenda making the representations at Appendix C of the agenda papers.

Witnesses and legal representatives in support of interested parties

Not applicable as none of the interested parties attended the hearing.

Representations considered in the absence of a party to the hearing:

No parties were excluded from the hearing, so this heading is not applicable.

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives
Section 13 which relates to responsible authorities
Part 4 which relates to club premises
Schedule 1 which relates to Regulated Entertainment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapters 6 & 9 which relates to club premises & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;
Chapter 17.9 – 17.15 which relates to the prevention of crime and disorder;

Chapter 17.16 – 17.18 which relates to public safety
Chapter 17.19 – 17.22 which relates to the prevention of nuisance;
Chapter 17.23 – 17.26 which relates to the prevention of children from harm;

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

The Sub-Committee did not depart from policy.

C: Determination:

The Committee has decided to:

- Grant the application for variation as modified by agreement with the applicant during the Sub-Committee hearing as follows:

Showing of films, indoors only - Monday – Sunday 12:00 – 23:00

Live and recorded music indoors and outdoors – conditions to be removed from the licence. *

Supply of alcohol on and off the premises – Saturday 10:00 – 23:00

Opening hours – Monday to Thursday 08:00 – 23:59, Friday 08:00 – 01:00, Saturday 08:00 – 02:00, Sunday 08:00 – 23:00 **

* Live and recorded music is permitted as a matter of law in accordance with The Live Music Act 2012 as amended by The Legislative Reform (Entertainment Licensing) Order 2014 and The Deregulation Act 2015

** No licensable activity takes place on any day before 10:00 Hrs

The Sub-Committee only considered the application for variation, therefore all other features of the existing licence remain unchanged, including the non-standard events and hours.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee had regard to the written representations made by other persons in respect of this objective, but noted that there was no representation from Kent Police and the objectors did not link their concerns to the proposed variation of the existing premises certificate. As such, the Sub-Committee was satisfied that the proposed variation promotes this licensing objective.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee had regard to the written representations made by other persons in respect of this objective. The Sub-Committee noted that the Section 182

Guidance is clear that public safety under the Licensing Act 2003 pertains to the safety of persons using the premises and not general public safety, such as the travel to and from the premises. As such, the Sub-Committee was satisfied that the proposed variation promotes this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee had regard to the written representations received from other persons in relation to this licensing objective. The Sub-Committee noted that there was no representation from Environmental Health or any other responsible authority and that there were matters raised as concerns, such as floodlights and the noise generated by sports which are not licensable activities and therefore not within the remit of the Licensing Sub Committee.

Further, during the hearing, it came to light that the live and recorded music sought by the applicant was within the boundaries that are permitted by law without the need for an entertainment licence.

However, there were some concerns around the addition of films, but the Sub-Committee were satisfied that would be dealt with by the reduction in hours and only permitting films to be shown indoors.

Taking into account all of the above, the Sub-Committee were satisfied that the application as amended was sufficient to promote this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee noted that there were no representations under this licensing objective.

Advisory:

Licensing and Planning are separate legal regimes. Permission under the Licensing Act 2003 does not alter any existing planning consent or conditions. Breaches of planning consent or conditions may be subject to enforcement action by the Council's Planning Enforcement Team.

Recommendation:

The Sub-Committee recommends to the Club Committee that there is engagement with neighbours prior to hosting any event which utilises the non standard timings.

PRINT NAME (CHAIRMAN): C Councillor P Garten

Signed [Chairman]:

A copy of the original document is held on file

Date: 9th November 2020