

<b>REPORT TO</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>DATE OF MEETING</b>	4 <sup>th</sup> July 2023
<b>AUTHOR</b>	Paula Barnshaw - Senior Licensing Officer
<b>DECISION REQUIRED</b>	The committee is requested to determine the review application
<b>REPORT TITLE</b>	Licensing Act 2003 - Review Application – Club Premises Certificate - Old Dean Bowling Club

## **1. PURPOSE OF THE REPORT**

The purpose of this report is for the committee to consider and determine a review application pursuant to section 52 of the Licensing Act 2003 (the Act) in respect of the club premises certificate SHBCCP-0520C for;

Old Dean Bowling Club, Old Dean Recreation Ground, Wimbledon Road, Camberley, Surrey GU15 4AY

## **2. DESCRIPTION OF THE PREMISES**

The Old Dean Bowling Club is a private members bowling and social club situated on the Old Dean licensed for the supply of alcohol to members and members guests on and off the premises.

The club premises certificate permits the supply of alcohol during the following hours;

Monday to Saturday 11:00 to 23:00  
Sunday 12:00 to 22:30

A copy of the current club premises certificate can be found at **Appendix A**.

## **3. THE REVIEW APPLICANT**

The application and grounds for the review are attached at **Appendix B** and have been submitted by Surrey Police Inspector Sam Turner and relates to the following licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

#### **4. BACKGROUND INFORMATION**

The Old Dean Bowling Club has held a club premises certificate issued by Surrey Heath Borough Council since the Act commenced in 2005. Prior to the Act it was licensed under the previous provisions where Magistrate's issued alcohol licences.

In September 2022 a meeting was arranged with the Chair, Police Licensing Officer and Senior Licensing Officer to discuss an application for a premises licence. The premises licence would replace the existing club premises certificate which is restricted to members and their guests excluding the possibility of passing business or renting the club's facilities to members of the public.

An application for a premises licence was not received from the club.

#### **5. DETAILS OF THE REVIEW APPLICATION**

On 22<sup>ND</sup> May 2023 the licensing authority received an application to review the club premises certificate from Surrey Police following a disturbance at the club. A copy of the review application can be seen at **Appendix B** and Police Officer statements at **Appendix C**. The Police would also like to show the Sub-committee CCTV footage of the incident recorded by the camera sited in the clubs bar area.

The application to review is based on all four of the licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In accordance with the Act and prescribed regulations, public notice of the review application was given to the club and to the licensing authority. In addition a notice of the review application was posted on the council website, noticeboard, shared on social media and posted around the club premises.

The review application was served on responsible authorities.

#### **6. LICENSING LAW REGARDING MEMBERS CLUBS**

To qualify for a club premises certificate, a club must make sure that these mandatory conditions are satisfied:

- The premises must be occupied and used regularly for club purposes;
- Alcohol and entertainment is only provided to members and their guests;

- The person nominated must be over 18 to serve and buy alcohol for the club;
- There must be no arrangement for anyone to financially benefit from buying or selling alcohol;
- New members must wait two days from their application being submitted before getting membership privileges;
- The club is established and conducted in good faith; and
- The club must have at least 25 members.

The advantages of a club premises certificate over a premises licence:

- No personal licence holder is required to authorise sales of alcohol
- No Designated Premises Supervisor is required to be nominated
- Authorities (such as the Police) have limited powers of entry because the premises are considered private and not open to the public
- The premises are not subject to many powers of closure (such as closure on the order of the Magistrates' Court and applied to all licensed premises in an area where disorder is happening or expected to happen)
- Premises which are covered by Club Premises Certificates can benefit from higher stakes gaming machines

A premises covered by a Club Premises Certificate hiring the venue to a non-member for a function involving regulated entertainment and the sale of alcohol would be guilty of an offence under the Licensing Act 2003 which is punishable by an unlimited fine and / or up to six months in prison.

## **7. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

No further representations have been received from responsible authorities, Surrey Fire and Rescue Service, Child Protection Committee, Environmental Health Services, Trading Standards, Planning Authority, Frimley Integrated Care Board, Surrey Primary Care Trust and the Home Office.

Eighteen representations in support have been received from club members and Councillors. These are attached at **Appendix D**.

At **Appendix E** is an email from the Old Dean Club Committee setting out the actions taken and proposed changes to club rules and procedures.

## **8. SURREY POLICE PROPOSED CONDITIONS**

On page 6 of the application (Appendix B) Surrey Police have asked the Subcommittee to consider revocation of the club premises certificate or to consider suspension for a period up to the maximum of 3 months. This period is suggested to train bar staff and allow time for new club rules to be written and implemented. However, the Police also recognise that the club is a

valuable community asset and have proposed conditions on page 10 and 11 of the application (Appendix B) which they consider proportionate and realistic.

## 9. POLICY AND STATUTORY CONSIDERATIONS

In making its decision, the Sub-committee is obliged to have regard to the relevant national guidance and the Councils own Licensing Policy. The Sub-committee must also have regard to all the representations made and the evidence it hears.

When determining the review application, the committee must have regard to:

Promotion of the licensing objectives;

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm
  
- The Licensing Act 2003;
- The Councils adopted Statement of Licensing Policy;
- Judgements of the High Court (legal advisor will give you guidance should this become necessary);
- The current statutory guidance issued by the Home Secretary in accordance with section 182 of the Act;
- The human rights of all parties concerned to ensure both a fair and balanced hearing and to consider the Equality Act 2010 public sector equality duty requiring public bodies to have due regard to the need to;
  - Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
  - Advance equality of opportunity between people who share a protected characteristic and people who do not share it. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race (including ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex and sexual orientation.

Excerpts from the National Guidance are attached at **Appendix F**.

The Licensing Officer recommends the following paragraphs taken from Surrey Heath's Statement of Licensing Policy should be considered for this application.

*6.3 Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the Act. Any conditions or restrictions attached to a premises licence or club premises certificate will be focused on matters which are within the control of individual licensees.*

6.4 *These matters centre on the premises and places being used for licensable activities and any impact of those activities in the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned.*

6.6 *The controls exercised through the provisions of the Act are however key aspects in the control of nuisance and antisocial behaviour, where this behaviour can be directly linked to the licensed premises, this forms part of the Council's holistic approach to licensing.*

8.5 *The application must be supported by a comprehensive operating schedule. This schedule must specify the steps which the applicant proposes to take in order to promote each of the licensing objectives.*

8.9 *Where applications for Premises Licences or Club Premises Certificates have attracted representations from a Responsible Authority or any other person, the application will be scheduled for a hearing before a Licensing Sub-Committee where the applicant and those making representations may be heard.*

8.10 *The Licensing Sub-Committee will give full and written reasons for the decision made for each application that proceeds to a hearing.*

14.5 *The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these measures should be specifically considered, detailed and addressed within an applicant's operating schedule.*

14.1.1 *Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.*

14.1.3 *When addressing crime and disorder, the applicant should identify any particular issues that are likely to adversely affect the promotion of the crime and disorder objective before including in the operating schedule how they propose to mitigate those matters.*

14.1.4 *Where objections are received and the Licensing Sub-Committee considers it appropriate to do so, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises.*

14.3.1 *The Licensing Authority is committed to ensuring, as far as practicable that the safety of any person visiting or working in licensed premises is not compromised. Applicants must demonstrate in their operating schedule that*

*suitable and sufficient measures have been identified, implemented and maintained to ensure public safety specific to the characteristics of their premises and events.*

*18.2 The Authority expects that premises will operate in a responsible manner to ensure that children are not desensitised to the potential harm of alcohol. Desensitisation can occur by many ways. For example, through the manner in which the business operates, through the products that they offer for sale, the layout of their premises or through how promotional/advertising material is displayed.*

*19.3 The Licensing Authority must avoid attaching conditions that duplicate other regulatory regimes as far as possible and may not impose conditions unless its discretion has been engaged following the making of relevant representations and the Licensing Sub-Committee has been satisfied at a hearing that it is appropriate to impose them.*

*19.4 It may then impose only those conditions appropriate to promote the licensing objectives arising out of the consideration of the representations.*

*19.6 The Licensing Authority recognises that it is important to ensure that any conditions attached to a licence or certificate achieve the licensing objectives but are not disproportionate or overly burdensome. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, following a hearing the Licensing Sub-Committee will consider attaching conditions provided that they are proportionate, justifiable and capable of being met.*

A copy of the Statement of Licensing Policy will be supplied to the Sub-committee.

The Licensing Act 2003 can be found by following this link - <https://www.legislation.gov.uk/ukpga/2003/17/contents>

The current statutory guidance can be found by following this link - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003/revised-guidance-issued-under-section-182-of-the-licensing-act-2003-december-2022-accessible>

The Sub-committee must take such of the following steps it considers necessary for the promotion of the licensing objectives:

- to modify the conditions of the licence; (either permanently or temporarily for up to three months);
- to exclude a licensable activity from the scope of the licence; (either permanently or temporarily for up to three months);
- to remove the designated premises supervisor (not applicable to a club premises certificate or where alcohol is not licensed);

- to suspend the licence for a period not exceeding three months;
- to revoke the licence;

The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

## **10. APPEALS**

An appeal may be made to a Magistrates' court within 21 days of the club premises certificate holder being notified of the licensing authority's decision. An appeal may be made by:

- The applicant for the review;
- The holder of the club premises certificate; or
- Any other person who made relevant representations in relation to the application.

**The decision of the committee, following the review hearing, will not have effect until the end of the period allowed for appeal, or until any submitted appeal is disposed of.**

## **11. APPENDICES**

Appendix A - Club Premises Certificate

Appendix B - Review application

Appendix C - Redacted Police officer witness statements

Appendix D - Support representations

Appendix E - Letter from the Old Dean Bowling Club Committee

Appendix F - Excerpts from the National Guidance