

BABERGH DISTRICT COUNCIL

<u>FROM:</u> Head of Natural and Built Environment	<u>REPORT NUMBER:</u> L13
<u>TO:</u> LICENSING SUB-COMMITTEE	<u>DATE OF MEETING:</u> 3 JUNE 2011

LICENSING ACT 2003 - REVIEW HEARING REPORT

1. PURPOSE OF REPORT

- 1.1 To report information to assist with the determination of an application (number 006561) made under section 87 of the Licensing Act 2003 - for the REVIEW of a Club Premises Certificate held by:

CORNARD UNITED FOOTBALL CLUB

In respect of:

THE CLUB PREMISES, CORNARD UNITED FOOTBALL CLUB, BLACKHOUSE LANE, GREAT CORNARD, SUDBURY CO10 0NL

The review has been instigated by the Chief Officer or Police in his capacity as a *responsible authority* - as given meaning by section 13(4) of the 2003 Act.

A complete copy of the review application, including detail on the grounds for the application and any supporting documentation, is attached as **Appendix A**.

2. RECOMMENDATIONS

- 2.1 The sub-committee must, having regard to relevant representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- (a) to modify the conditions of the certificate;
- (b) to exclude a qualifying club activity from the scope of the certificate;
- (c) to suspend the certificate for a period not exceeding three months; or
- (d) to withdraw the certificate.

For these purposes conditions of the certificate are *modified* if any of them are altered or omitted or any new condition is added.

It should be noted that the Sub-Committee may decide that it is not necessary to take action against the certificate, or decide to deal with the matter by way of a warning and/or improvement notice. For example it may decide to require improvements within a specified period of time.

The sub-committee is able to determine this application.

3. FINANCIAL IMPLICATIONS

- 3.1 Statutory fees as prescribed by Regulation apply to Licensing Act 2003 processes. Any party may appeal a decision taken by the Licensing Authority, which carries a potential cost/resource impact.

4. RISK MANAGEMENT

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions.

5. CONSULTATIONS

- 5.1 Statutory consultation requirements apply to individual applications – see ‘Key Information’ paragraph 8.12 below.

6. EQUALITY AND DIVERSITY IMPACT

- 6.1 None.

7. SHARED SERVICE / PARTNERSHIP IMPLICATIONS

- 7.1 None.

8. KEY INFORMATION

- 8.1 This hearing is necessary to determine a section 87 REVIEW application, instigated by the Police. Other Responsible Authorities and Interested Parties, as defined by the Licensing Act 2003, may join the review process (within 28 days of the day following the review being given) and submit relevant representations of their own. The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

- 8.2 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy published under section 5 of the Act, and any guidance issued by the Secretary of State under section 182 of the Act. Part 11 of the section 182 guidance specifically refers to ‘Reviews’.

- 8.3 The sub-committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the review of an existing licence or certificate.

APPLICATION DETAIL

- 8.4 Cornard United Football Club has held a Club Premises Certificate (number BCP0026) since the Licensing Act 2003 was implemented in 2005 and prior to that (and since 1987) held a magistrates’ issued Club Registration under the now repealed Licensing Act 1964 liquor licensing regime. The Club successfully varied its Club Premises Certificate in January 2009, but this grant was subject to

reductions and conditions being applied via a hearing and following representations (report H160 refers). The current permissions are attached as **Appendix C**, and it should be noted that this type of authorisation entitles club members and bona fide guests *only* to benefit from licensed club activities. It does not facilitate licensable activities for the general public, for which the correct authorisation would be a premises licence or temporary event notice.

- 8.5 In respect of the function/incident that prompted this review of Club Premises Certificate BCP0026, the Club was operating under a temporary event notice (Ref: 0116/11) given by Mr Christopher Symes (Club Secretary) and a copy of this is attached as **Appendix D**.
- 8.6 'Qualifying members clubs' under the Licensing Act 2003 must meet certain criteria, specified within section 62 of the Licensing Act 2003, to benefit from a Club Premises Certificate. Generally, qualifying members clubs are entitled to certain benefits in comparison to 'commercial' premises - preserving similar allowances under previous legislation. However, this system relies on clubs operating in 'good faith' under their own robust controls, rules and constitution which should also serve to promote the licensing objectives. It should be noted that if a Licensing Authority decides for any purpose of the 2003 Act a club does not satisfy the general condition that it is established and operated in 'good faith' as a club, it may give the club a Notice withdrawing the Club Premises Certificate.
- 8.7 Clubs operating under a Club Premises Certificate do *not* need a Designated Premises Supervisor (DPS) nor alcohol sales authorised by personal licence holders. There are also more limited powers of entry and closure for the Police and authorised persons.
- 8.8 The full detailed grounds for the review, and supporting documentation, are attached as **Appendix A**, but in *general* terms these are based on:
- (a) Various incidents, including large scale disorder, related to a 6th formers' function held at the Club premises on 13th April 2011 (under a Temporary Event Notice reference 0116/11 given by Christopher Symes) to which the Police attended.
 - (b) Previous report to the Police of disorder linked to use of the Club facilities on 18th February 2011.
 - (c) Concern over the Club's operation, management control and use of the Club facilities with indications that the Club are failing to promote the licensing objectives or have sufficient regard to Licensing Act 2003 requirements.
- 8.9 The Council's Licensing and Environmental Protection Teams are aware that the Club venue has a history of complaints and compliance issues, and accordingly has collated a summary from its records of the main enforcement and compliance activity related to the Club's operation. This is attached at **Appendix B**, as referenced by the Principal Environmental Protection Officer in his written representation.
- 8.10 This summary indicates that youth/sixth form parties and functions in particular have contributed to issues that are relevant to the promotion of the licensing objectives, and this has been acknowledged by the Club which has repeatedly promised to cease such functions. The Club has received support and education from the Licensing Authority in relation to its licensed operation and compliance with licensing law.
- 8.11 It should be noted that Trading Standards, albeit not joining the review, have copied the Licensing Authority into a warning letter they have issued the Club on 18 April

2011 relating to allegations of underage sales (section 146 offences under the Licensing Act 2003). This is likely to be in connection with the event that has instigated the review. The Authority is also aware of previous compliance issues raised by Trading Standards with the Club in July 2006 relating to alleged underage sales and weights and measures complaints.

8.12 The statutory review notices of application required under the 2003 Act have been displayed at the Club Premises and around the site. The review application and Notice have been made available on the Council website and on the public Noticeboard at its main offices. Responses to the review application from Responsible Authorities under the 2003 Act are identified below:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	INSTIGATOR OF REVIEW
2. Local Fire Authority	None
3. Health and Safety Executive/Local Authority for enforcing Health and Safety at Work etc. Act 1974	None
4. Environmental Protection	JOINED REVIEW VIA REPRESENTATION
5. Local Planning Authority	Planning advisory only.
6. Area Child Protection Committee	AS PER CHIEF OFFICER OF POLICE. INSTIGATOR OF REVIEW
7. Any other Licensing Authority	Not applicable
8. Trading Standards	None
9. Environmental Agency/British Waterways Board/Maritime and Coastguard Agency	Not applicable

8.13 Representations have been received during the statutory period from 'interested parties' as defined by the 2003 Act:

- Mr Charles Ping, Little Wrongs, 81 Wells Hall Road, Great Cornard, SUDBURY CO10 0NH
- Mr Tony Platt & Mrs Lesley Platt, Moorlands Barn, Blackhouse Lane, Little Cornard, SUDBURY CO10 0NL

Some local community comments/complaints may have also been raised directly via the Police or Environmental Protection Team.

8.14 Whilst Licensing and Planning regimes are separate, the Planning Authority has advised during the review process that the Club's existing Planning permissions are being examined. This will be a matter for the Club to address/resolve directly with the Planning Authority and separately from this licensing review matter.

8.15 The Club has also made various written submissions in support/defence of its operation to the Police and Licensing Authority during the review application process, and has seemingly canvassed supportive comments from users of the Club facilities which have also been received by the Licensing Authority (albeit these persons are not interested parties as defined by the 2003 Act) . For completeness these written comments are also attached at **Appendix B**.

A copy of each representation and supporting documentation is also attached at **Appendix B**.

9. **APPENDICES**

Title	Location
(A) Review application (section 87) 006561	Attached
(B) Representations and written submissions	Attached
(C) Summary of Club Premises Certificate BCP0026	Attached
(D) Copy of Temporary Event Notice 0116/11	Attached
(E) Site plan (showing <i>approximate</i> location of Interested parties)	Attached

10. **BACKGROUND DOCUMENTS**

10.1 None

MALCOLM FIRTH
Head of Natural and Built Environment Division

CONTACT: Lee Carvell (Licensing Officer to the Council)
Tel: 01473 825719 email: lee.carvell@babergh.gov.uk

H:\DOCS\Committee\REPORTS\LicensingSubCommittee\2011\030611-CORNARD UNITED.doc