

Waverley Borough Council

Report to: Licensing Sub-Committee A

Date: 20 November 2023

Ward(s) affected: All Farncombe & Godalming Wards

Report of Director: Place

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Report Status: Open

**Licensing Act 2003 – Application for Review of a Club Premises Certificate
– Godalming Naval Club, 88 Meadrow, Godalming, Surrey. GU7 3HY**



Executive Summary

- 1.1 An application has been received for a review of a Club Premises Certificate from 'other persons', in respect of the Godalming Naval Club, 88 Meadow, Godalming Surrey GU7 3HY. 12 responses to the review notice procedure have been received, one from a responsible Authority in support of the review and 11 from 'other persons' in support of the premises. A copy of the redacted application is attached at **Annexe 1**.

Recommendation to Council

It is recommended that the Sub-Committee determine the application to review.

Reason(s) for Recommendation:

- 3.1. To address the application for review received as required by the Licensing Act 2003.

The general principle is that an application for a Review of a Club Premises Certificate must be considered once received unless subsequently withdrawn. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

- 3.2. The Sub-Committee must consider the application on its individual merits and take into account all relevant matters, then determine the application by taking the steps it considers appropriate and necessary / proportionate to promote the licensing objectives. Having considered all relevant representations, and having taken into account the promotion of the licensing objectives, a decision can be taken:
- 1. To modify or impose additional relevant conditions (ie to alter, omit or add any new condition) to such an extent as is considered necessary for the promotion of the licensing objectives (in relation to matters raised by this review);
 - 2. To exclude one or more of the licensable activities from the scope of the Club Premises Certificate
 - 3. to suspend the Club Premises Certificate for not more than three months
 - 4. to revoke the Club Premises Certificate to continue in its present form, with or without a written warning.
- 3.3. Members are also reminded of the option to issue a 'yellow card' i.e. a warning as to future conduct which may accompany options 1 to 3 above.
- 3.4. The Licensing Authority may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

Exemption from publication

- 4.1. No

Purpose of Report

- 5.1. The purpose of the report is to enable the Sub-Committee to consider an application for a review of a Club Premises Certificate from 'other persons' in respect of the Godalming Naval Club, 88 Meadow, Godalming Surrey GU7 3HY where 12 responses to the review notice procedure have been received, one from a responsible Authority in support of the review and 11 from 'other persons' in support of the premises.

Strategic Priorities

- 6.1. Waverley promotes a strong, resilient local economy, supporting local businesses and employment and the health and wellbeing of our communities. Waverley's strategic priorities are supporting a strong, resilient local economy and improving the health and wellbeing of our residents and communities.

Background

Grounds for review

- 7.1. The application to review the Club Premises Certificate relates to the following licensing objectives:
- the prevention of crime and disorder
 - the prevention of public nuisance
 - the protection of children from harm

Please see the application for review attached at Annexe 1 for details.

In accordance with the legislation, the applicant has sent copies of the application to responsible authorities and was advertised in accordance with the requirements of the Licensing Act 2003 and notification was made to the licence holder and responsible

authorities. The review documents were sent to the licence holders. The consultation period for the review ended on 26 October 2023.

7.2 **Details of Club Premises Certificate**

The premises applied for an “application for an existing Club Certificate to be converted to a Club Premises Certificate”, in 2005 following the introduction of The Licensing Act 2003. The Certificate was granted on 26/10/2006 (amendment of hours) having received no objections.

An application to vary the internal layout and an amendment to hours was granted on the 09/01/2020 following a Licensing Sub-Committee hearing.

A minor variation was granted in November 2020, during COVID, to add off sales and amend some conditions following an application which received no objections.

7.3 A copy of the Club Premises Certificate is attached (**Annexe 2**) and summarised below:

- **Regulated Entertainment** (Live & Recorded Music, indoors Sports Events & Facilities for dancing)

Monday to Thursday	1900 to 2300
Friday	1900 to 0030
Saturday	1100 to 0030
Sunday	1100 to 0000

- **Supply of Alcohol** (Consumption On & Off the Premises Only)

Sunday to Thursday	1100 to 2300
Friday & Saturday	1100 to 0000

Opening hours

Opening hours as for the supply of alcohol, closing 30 minutes after the sale/supply of alcohol ceases

- 7.4 Attached at **Annexe 3** is a copy of the plans of the premises.
- 7.5 Attached at **Annexe 4** is a plan showing the area of the premises and surrounding properties.

8. Application for a Review of the Licence

- 8.1 An application for review of this club premises certificate has been made by 'other persons'. The application has been advertised at the premises by the Licensing Authority, and elsewhere in accordance with the Licensing Act 2003. A copy of the review notice is attached at **Annexe 5**, giving a deadline date of 26th October 2023 for any representations to be submitted to the Licensing Authority. The application for a review is set out in full at **Annexe 1**.
- 8.2 The applicant for the review and the subject of the review, (The Naval Club) may call witnesses in support of any evidence they may give, having first notified the Licensing Authority of their intention to do so.

9. Other Responsible Authorities – Responses to the Notice Procedure

- 9.1 One response to the review notice has been received from Environmental Health acting in its role of a responsible authorities in support of the application.
A copy of the response received is attached at **Annexe 6**.

10. Interested Parties – Responses to the Notice Procedure

- 10.1 There have been 11 responses to the review notice from "other persons", in support of the premises.
A copy of the responses received are attached at **Annexe 7**.

11. Statutory Guidance

11.2 Statutory Guidance issued under Section 182 of the 2003 Act, published in August 2023, regarding determining a Review (*Paragraphs 11.1 - 11.28*).

The guidance will be available for reference purposes at the meeting.
Particular attention is drawn to:*

- *Reviews – paragraphs 11.1-11.28*
- *The Licensing Objectives – paragraphs 2.1–2.37*
- *Hearings – paragraphs 9.31 to 9.44*

The guidance can be found at:

[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

12. Policy and statutory considerations

When determining the application, the committee must have regard to:the promotion of the licensing objectives which are:

- *Prevention of Crime and Disorder*
- *Public Safety*
- *Prevention of Public Nuisance*
- *Protection of Children from Harm*

As well as:

- *The Licensing Act 2003*
- *The adopted statement of licensing policy*
- *The current statutory guidance issued by the Home Officer in accordance with section 182 of the Act;*
- *The representations, including supporting information presented by all the parties; and*
- *The human rights of all the 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; and*
- *Foster good relations between people who share a protected characteristic and people who do not share it.*

13. **The Statutory Guidance** provides advice in relation to the consideration of review applications. In particular, members should have regard to the following advice:

Paragraph 11.1 - "The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate."

Paragraph 11.2 - "At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives."

Paragraph 11.10 - "Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation."

Paragraph 11.16 - "The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives."

In reaching a decision upon a review application, the guidance offers assistance to the licensing authority as follows:

Paragraph 11.17 - "The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder."

Paragraph 11.18 - "However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker."

Paragraph 11.19 - "Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*

- *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- *suspend the licence for a period not exceeding three months;*
- *revoke the licence."*

Paragraph 11.20 - "In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review."

A copy of the Statement of Licensing Policy, current statutory guidance and the Act will be made available for reference at the hearing.

14. Consultation

- 14.1 The application has been dealt with in accordance with the requirements of the Licensing Act 2003

15. Key Risks

- 15.1 There are no specific implications arising from this report.

16. Financial Implications

- 16.1 There are no immediate resource implications in this report; resources required to fulfil the Council's duties in respect of the licensing process are met from the existing budget.

17. Legal Implications

- 17.1 The Committee has a duty to determine this review under the Licensing Act 2003. The Committee should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally

be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 17.2 The Committee should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 17.3 A decision of this Committee can be subject to appeal in accordance with section 181 and schedule 5 of the Licensing Act 2003.

18. Human Resource Implications

- 18.1 There are no additional human resource implications

19. Equality and Diversity Implications

- 19.1 None

20. Climate Change/Sustainability Implications

- 20.1 There are no implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

21. Summary of Options

- 21.1 The general principle is that an application to review a Club Premises Certificate must be considered unless subsequently

withdrawn. This is subject to the proviso that the applicant has complied with regulations in submitting the application.

The Sub-Committee must consider the application on its individual merits and take into account all relevant matters, then determine the application by taking the steps it considers appropriate and necessary / proportionate to promote the licensing objectives. Having considered all relevant matters, and having taken into account the promotion of the licensing objectives, a decision can be taken:

- To modify or impose additional relevant conditions (ie to alter, omit or add any new condition) to such extent as is considered necessary for the promotion of the licensing objectives (in relation to matters raised by this review);
- To exclude one or more of the licensable activities from the scope of the Club Premises Certificate;
- To suspend the Club premises Certificate for not more than 3 months;
- To revoke the Club Premises Certificate to continue in its present form, with or without a written warning.

Members are also reminded of the option to issue a 'yellow card' i.e. a warning as to future conduct which may accompany options 1 to 3 above.

The Licensing Authority may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

22. Conclusion

22.1 The Committee is asked to consider the report and determine the application.

23. Background Papers

23.1 The Licensing Act 2003 (legislation.gov.uk)

Licensing Act 2003 Revised guidance (August 2023) issued under section 182 of Licensing Act 2003 - GOV.UK (www.gov.uk)

Waverley's Revised Statement of Licensing Policy 2023 (waverley.gov.uk)

24. Appendices

- Annexe 1 – An extract of the relevant pages from the review application form
- Annexe 2 – A copy of the Club Premises Certificate
- Annexe 3 – A copy of the plans of the premises.
- Annexe 4 – A plan showing the area of the premises and surrounding properties.
- Annexe 5 - A copy of the review notice
- Annexe 6 – A copy of the response to the review notice from Environmental Health as a responsible authority in support of the application.
- Annexe 7 – A copy of the responses to the review notice in support of the premises received from 'Other Persons'

Please ensure the following service areas have signed off your report. Please complete this box, and do not delete.

Service	Sign off date
Finance / S.151 Officer	
Legal / Governance	
HR	
Equalities	

Lead Councillor	
CMB	
Executive Briefing/Liaison	
Committee Services	