



Saxilby with Ingleby Parish Council

Non-confidential

Change of Designated Premises Supervisor to a Management Committee

Report to: Full Council 24-10

Report by: Clerk

Power/duty which decision falls under: Licensing Act 2003

Which council objective(s) it falls under:

- Maintain and improve community facilities and amenities
- To foster public participation and engagement

Public Sector Equality Duty (*Consider how policies/decisions affect those protected under the Equality Act*)

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Consideration on carbon reduction:

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Consideration of risk management in relation to the proposal¹

Does the report consider any new activity? If 'Yes', has a risk assessment including risk management proposals for consideration been included for consideration and adoption by the council? (*Financial Regulation 17b*)

No. The report considers relinquishing the DPS for the pavilion bar. This will reduce the risk to the individual officer and council, if non-compliance were to occur.

¹*Risk areas to consider - strategic/operational, likelihood/impact, add to risk register?, any contingency planning needed?*

REPORT:

Background

In April 2021 (Ref 128/21) Council agreed to no longer run the Pavilion bar and to outsource its operation. A project group was set-up to progress the action, and a tender paper was drafted which was approaching issue as of December 2021.

This process was then paused, due to legal issues being identified regarding the community centre whereby a formal lease is required. Due to the council being termed a connected party (as it is the custodian trustee for Saxilby Recreation Charity), there is a set process which has to be followed. This is laid out by the Charity Commission and the process remains in progress.

Therefore, in order to outsource the bar, council first requires a formal lease to be in place to lease the building and then the bar area could be sub-let (subject to permission being granted in the lease for this).

Current position

In the meantime, an interim solution has been found, whereby Saxilby Sports Hub are renting the bar at an hourly rate for the sessions they would like the bar to be open for.

This was initially carried out using a Temporary Events Notice (TENS) but due to the success of the bar, the 15 TENS that you can have per year were running out.

As a result, a DPS (Designated Premises Supervisor²) was allocated as a temporary measure to ensure the Sports Hub could continue to operate. This is the Assistant Clerk.

Due to the responsibilities of the role where the Licensing Act requires the supervisor to take responsibility for the sale and supply of alcohol and also that the council has agreed to outsource the bar rather than running the facility directly, it is felt that this responsibility sits more appropriately with the Sports Hub Committee as a longer-term solution, rather than with an officer.

“If you run or are involved in a community, church or village hall that wishes to sell alcohol or already sells it, you can apply for the sale of alcohol to be made the responsibility of a management committee instead of a premises supervisor. Or you can also apply to replace the designated premises supervisor, if you already have one, with the management committee.”³

The Sports Hub was contacted to advise them the item was being added to the September full council agenda for consideration. Their initial response was that the DPS could be moved over to another individual.

However, it was advised that as the Sports Hub is a committee who has the responsibility for the endeavor, the proposal to council would be to request the Sports Hub apply for the

² <https://www.gov.uk/guidance/alcohol-licensing#designated-premises-supervisors>

³ <https://www.gov.uk/guidance/alcohol-licensing#designated-premises-supervisors>

sale of alcohol to be made the responsibility of a management committee instead of a premises supervisor.

Licensing at WLDC were contacted to confirm was possible and it was confirmed that the option is available, and an application can be made “for a committee to take on the DPS role”.

Following agreement (Ref FC24/187a) at the September Full Council to disapply the DPS and move it over to the Sports Hub Management Committee, the Sports Hub contacted WLDC to progress an application. WLDC licensing then advised having the Sports Hub as a management committee under the premises license would not be possible, as they are not clear on how the premises is predominantly used – “licensing authorities will consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature ‘community premises’. The test is whether the predominant use of the premises is for community benefit rather than the utility of the premises for members of the community for private purposes.”⁴ As the Sports Hub are hiring out the bar and not whole centre, WLDC on reflection are no longer certain the Sports Hub meet the legal criteria for moving over to a management committee.

As such full council needs to re-consider the DPS/management committee position for the sale of alcohol at the St Andrews Community Centre.

The next page looks at the options available for council to consider.

Premises License

As well as the DPS, there is a premises license. This is needed for a premises where you want to sell alcohol or offer entertainment⁵.

It is not proposed that the premises license is transferred into the control of a new premises license holder, as the council would hold control over the license for the building they currently manage.

This position can be reviewed in due course if the council leases the community centre and then sub-leases the bar.

⁴ <https://www.gov.uk/government/publications/alcohol-licensing-community-premises/designated-premises-supervisor-committee-guidance>

⁵ <https://www.gov.uk/government/publications/premises-licence-application-forms/premises-licence-guidance>



All Options

Options	Advantages	Disadvantages	Impact on provision (V.Low 1 - V.High 5)
1. To appoint council officers as DPS	<ul style="list-style-type: none"> • DPS is a representative of the organisation, and requires licensing knowledge. • Management is retained in-house. • The DPS is the key person who will usually be charged with day-to-day management of the premises by the premises licence holder. • The DPS provides an essential point of contact for police, fire officers or licensing authority officers so that problems can be dealt with swiftly. • Staff members are present to ensure license conditions are complied with. 	<ul style="list-style-type: none"> • Two staff members would need to gain a license (one as a reserve). • Dependent on staff members agreeing – as the license is theirs. • DPS does not have to be present at the licensed premises at all times, but they must be easy to contact when not present – staff member is effectively on-call. • Additional responsibility, so would need to consider remuneration for the staff member • Additional risk for staff - can be prosecuted for breaches of the licence. • Not in-line with the council's position to ultimately lease the bar (a separate premises license and DPS may then be required – as one area is operating as a bar and one area operating as a community space with bar for functions) • Process likely to take 2-3 months, so TENS may be required in the meantime. 	2
2. To apply for the DPS to be disappled and for Full Council to become the	<ul style="list-style-type: none"> • Council retain control to ensure license conditions are met. • The management committee will collectively be responsible for ensuring compliance with licence conditions and the law. Where hirers are provided with a written summary of their responsibilities under the act in relation to the sale of alcohol, the management. committee is likely to be treated as 	<ul style="list-style-type: none"> • Not guaranteed WLDC will allow it to be disappled to the council either. • Day-to-day management remit sits more with officers than council. • Committee would be the essential point of contact, which is not practical for emergency situations. • Additional risk for council - as can be prosecuted for breaches of the licence. 	3

Management Committee	<ul style="list-style-type: none"> having taken adequate steps to avoid liability to prosecution if a licensing offence is committed. Reduces risk to individual officers. 	<ul style="list-style-type: none"> A committee should have the capacity to provide sufficient oversight of the premises to minimise any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a DPS. Would council meet this requirement? Process takes two months – interim arrangements would be required (e.g. TENS license). 	
3. To go back to TENS licenses with no DPS (max 15 per year)	<ul style="list-style-type: none"> Reduces risk to council and its premises license as operating less. However, there have been no incidents to date. 	<ul style="list-style-type: none"> Sports Hub will be limited to frequency of operation, reducing funds available for local sports teams. Currently the Hub opens on Fridays which would be up to 52 times a year excluding any other hires. Would have a high impact on a community group and their users. 	4
4. To appoint a Sports Hub Member as a DPS	<ul style="list-style-type: none"> Sports Hub currently hire the bar and physically sell alcohol, and thus have to assess with each sale that they are complying with license conditions. Sports Hub have a DPS holder so no delay to change over. Council can provide an agreement that DPS is responsible for the sale of alcohol as a measure to reduce the risk of liability and prosecution if a licensing offence is committed. 	<ul style="list-style-type: none"> Council will have less control over the licensee, but are still responsible as a premises licensee. The premises license could be put at risk if any problems arise in relation to license conditions – mitigation can be put in place (see advantages column). A second DPS is recommended for risk management e.g. if the appointed DPS is on long-term sick leave. What happens if someone else wants to hire out the Pavilion bar and bar servery/kitchen – would need to put in place an agreement with the DPS/Sports Hub What happens if someone wants to hire function room and bar servery – under TENS if separate or DPS if Sports Hub agree to provide bar 	2
5. Do not hire out the bar	<ul style="list-style-type: none"> Less risk to council. Drinking alcohol in any amount carries a health risk. The risk is low for moderate intake, but goes up the more you drink goes up – this risk can be reduced by promoting responsible consumption. Negative impact on physical health for those who regularly attend– impact on council's objective to improve the [physical] well-being of residents 	<ul style="list-style-type: none"> Reduction in service provision, for a group which raises money for community sports clubs. If closed, it would not be in-line with the council's maintaining facilities and services objective. Impact on mental health for those who regularly attend to socialise – negative impact on council's objective to improve the [mental] well-being of residents. 	5



RECOMMENDATION(S):

That Full Council

- 1) Notes the report**
- 2) That council agrees to set-aside Standing Order 7a for resolution Ref FC24/187a due to the course of action now not being possible**
- 3) That council agrees for the Sports Hub to nominate a DPS on the basis that:**
 - a. The decision will be subject to review in six months to ensure that it is working as intended**
 - b. That an agreement is put in-place between the council and the DPS and Sports Hub to clearly lay out responsibilities including**
 - i. What happens if another hirer wants to hire the bar area and servery (e.g. TENS or DPS)**
 - ii. What happens if another hirer wants to hire upstairs function room and bar servery (e.g. is it under the DPS, DPS only if Sports Hub agree to provide bar, or TENS?)**
 - c. The decision is subject to review if the bar out-sourcing project is re-initiated**