



# Saxilby with Ingleby Parish Council

## Non-confidential

### Agreement of Designated Premises Supervisor/Management Committee

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**Report to:** Full Council 24-11

**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 proposal<sup>1</sup>**

**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.

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<sup>1</sup>*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).

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 Supervisor<sup>2</sup>) 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 was felt that this responsibility sat more appropriately with the Sports Hub Committee as a longer-term solution, rather than with an officer.

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'".

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

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.”<sup>3</sup>

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, September full council was scheduled to re-consider the DPS/management committee position for the sale of alcohol at the St Andrews Community Centre with a view to appointing a DPS from the Sports Hub.

On the day of the meeting WLDC licensing contacted the clerk and advised on reflection they felt as the premises license was in the council’s name it was advisable for the council to also hold the DPS – which would be an officer.

Due to the change in guidance the item was deferred until the November meeting.

## **Report**

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

Currently there is one staff member who holds their own DPS license. It is recommended at least two people hold a DPS to ensure cover if the council agree this course of action.

### **Lowest risk**

- The lowest risk option is not to hire out the bar, however this would have a high impact on a section of the community.

### **Low-Medium risk**

- An alternative is for the Sports Hub to revert to using TENs however this would cover around six months of operation – three months in 2024 and three months in 2025. 15 TENs per year.

It is unlikely a sub-lease would be in place by then for the Sports Hub to have a separate premises and DPS licenses, if the community centre lease proceeds, meaning there is a medium term risk of the Sports Hub being unable to operate after April 2025, based on their current operating model.

### **Medium risk**

- If council applied to take on responsibility as a management committee, it is not guaranteed to be accepted by WLDC and the decision would once again need to come back to council to re-consider.
- If council staff maintain the role DPS, it is recommended that the clerk to apply for a license and become the primary DPS, when licensed, to move the responsibility to the senior officer of the council.

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<sup>3</sup> <https://www.gov.uk/government/publications/alcohol-licensing-community-premises/designated-premises-supervisor-committee-guidance>

If officers hold this position, it is important that the council is supportive of staff in this role and recognizes the level of personal, as well as corporate, responsibility this entails.

It is important the Sports Hub committee and volunteers sign to agree to undertake the bar hire fully in-line with the legal requirements of the license and that hire of the bar area is subject to continuing to meet these legal conditions laid down by the licensing authority.

It is recommended that two Sports Hub committee members undertake DPS training/become a license holder to learn the legal requirements of the position and potentially in readiness for if a longer-term sub-letting model is adopted

**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 entertainment<sup>4</sup>.

It is not proposed that the premises license is transferred into the control of a new premises license holder, as the council would then not 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.

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<sup>4</sup> <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	Risk Likelihood v Impact 5x5
1. To appoint council officers as DPS	<ul style="list-style-type: none"> <li>• DPS is a representative of the organisation, and requires licensing knowledge.</li> <li>• Management is retained in-house.</li> <li>• The DPS is the key person who will usually be charged with day-to-day management of the premises by the premises license holder.</li> <li>• The DPS provides an essential point of contact for police, fire officers or licensing authority officers so that problems can be dealt with swiftly.</li> <li>• Staff members are present to ensure license conditions are complied with.</li> </ul>	<ul style="list-style-type: none"> <li>• Two staff members would need to gain a license (one as a reserve, for example if the DPS went on LT absence).</li> <li>• There will be a cost to the council for DPS training for further staff member(s)</li> <li>• Dependent on staff members agreeing – as the license is theirs.</li> <li>• 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.</li> <li>• Additional responsibility, so would need to consider remuneration for the staff member</li> <li>• Putting additional risk onto staff - can be prosecuted for breaches of the licence.</li> <li>• 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)</li> <li>• Process likely to take 2-3 months, so TENS may be required in the meantime.</li> </ul>	<b>2</b>	<b>3 x 4 = 12</b>
2. To apply for the DPS to be	<ul style="list-style-type: none"> <li>• Council retain control to ensure license conditions are met.</li> </ul>	<ul style="list-style-type: none"> <li>• Not guaranteed WLDC will allow it to be disapplied to the council either.</li> </ul>	<b>3</b>	<b>3 x 4 = 12</b>

<p>disapplied and for Full Council to become the Management Committee</p>	<ul style="list-style-type: none"> <li>• The management committee will collectively be responsible for ensuring compliance with license 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 having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.</li> <li>• Reduces risk to individual officers.</li> </ul>	<ul style="list-style-type: none"> <li>• Day-to-day management remit sits more with officers than council.</li> <li>• Committee would be the essential point of contact, which is not practical for emergency situations.</li> <li>• Additional risk for council - as can be prosecuted for breaches of the licence.</li> <li>• 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?</li> <li>• Process takes two months – interim arrangements would be required (e.g. TENS license).</li> </ul>		
<p>3. To go back to TENS licenses with no DPS (max 15 per year)</p>	<ul style="list-style-type: none"> <li>• Reduces risk to council and its premises license as operating less.</li> </ul>	<ul style="list-style-type: none"> <li>• Sports Hub will be limited to frequency of operation, reducing funds available for local sports teams.</li> <li>• Currently the Hub opens on Fridays which would be up to 52 times a year excluding any other hires.</li> <li>• Would have a high impact on a community group and its users.</li> </ul>	<p><b>4</b></p>	<p><b>3 x 2 = 6</b></p>
<p>4. Do not hire out the bar</p>	<ul style="list-style-type: none"> <li>• Less risk to council.</li> <li>• 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.</li> <li>• Negative impact on physical health for those who regularly attend– impact on council’s objective to improve the [physical] well-being of residents</li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in service provision, for a group which raises money for community sports clubs.</li> <li>• If closed, it would not be in-line with the council’s maintaining facilities and services objective.</li> <li>• 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.</li> </ul>	<p><b>5</b></p>	<p><b>1 x 5 = 5</b></p>



## **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 clerk to become the primary DPS license holder and the assistant clerk to be the reserve license holder, subject to their agreement**
- 4) That council supports staff in this role and recognizes the level of personal, as well as corporate, responsibility it entails.**
- 5) That all Sports Hub committee members and volunteers sign to agree to meet the legal requirements of the license and that hire of the bar area is subject to meeting these legal conditions laid down by the licensing authority.**
- 6) That the council request the Sports Hub agrees for two committee members to undertake DPS training/become a license holder.**
- 7) Compliance with the licenses to be monitored and fed back to council on a monthly basis for six months initially. If breaches occur council to issue a reminder to the group. If there are more than three breaches in a four-weekly period, council to consider if hire is to cease.**
- 8) The decision will be subject to review in six months to ensure that it is working as intended.**
- 9) The decision is subject to review if the bar out-sourcing project is re-initiated.**