

## **LICENSING SUB-COMMITTEE**

Minutes of the meeting held at 10.00am on 25 May 2022

### **Present:**

Councillor Nicholas Bennett MA J.P. (Chairman)  
Councillors Kira Gabbert and Pauline Tunnicliffe

### **1 APPOINTMENT OF CHAIRMAN FOR THE MEETING**

Members appointed Councillor Bennett as the Chairman for the meeting.

### **2 DECLARATIONS OF INTEREST**

Councillor Gabbert announced that she personally knew some members of the public who were sitting in the gallery. Several years ago Cllr Gabbert served as a school governor alongside one of the objectors speaking at the meeting, but had no contact with this person since.

Councillor Bennett announced that he recognised some members of the public who were sitting in the gallery and that he knew the person Councillor Grant was representing.

### **3 APPLICATION FOR A NEW PREMISES LICENCE AT LA SPORTS CLUB, ST DUNSTAN'S LANE, BECKENHAM BR3 3SS**

The Applicant explained the history of the site and said the aim was to have a family run sport club. Money had been invested since the purchase to improve the facilities, but the pavilion required considerable work. The Lawnmower Shed was therefore provided as a coffee shop where families could meet and socialise. Following representations on this application, a planning application was submitted and awaiting validation.

In terms of the licensing objectives, the Applicant was acutely aware of the responsibility to protect children from harm and of preventing crime and disorder and had taken steps including installing CCTV. In terms of preventing public nuisance, there would be enforcement against anti-social parking and better communication with residents. For public safety, the pavilion was too dangerous to use, so the application was for the Lawnmower Shed. The pavilion was excluded from the application. The Applicant was familiar with problems with the lane and granting a licence would help to regulate the situation.

### **Questions to the Applicant**

Councillor Tunnicliffe asked if the pavilion had been licensed and when it was last used. The Applicant did not know. In relation to the website referring to activities such as parties, the Applicant said the site was nothing to do with the club and a legacy of Andrew Birchenall.

Councillor Gabbert enquired about the capacity of the Lawnmower Shed and the Applicant said the outside seating area had 8 trestle tables with a combined capacity of 48. Refreshments would only be allowed within that area, so taking a pint to the pitch would not be permitted. The area was as shown in the photo on page 61 of the agenda. The plans for the pavilion were to restore it, but the club needed money to do so. That would come from the sports club as a whole and there was no breakdown of projected revenue between the Lawnmower Shed and other activities. It was, therefore, not possible to say how much money the Applicant was expecting to make from alcohol sales. Once the pavilion was up and running, the Lawnmower Shed would no longer be needed.

The Chairman asked about the website. The Applicant explained the history and the previous involvement of a former director. What was detailed on the website was not an operation that the Applicant was promoting. In terms of the apparent discrepancy between saying in the application the premises was a coffee shop for socialising and having matches with children, yet serving alcohol until 22:00, the Applicant explained there would be football in the evening, such as training, events and tournaments. The intention was to use the ground for evening football, so there would be longer hours. The primary purpose was a sports club, there would be no bingo or party nights. The Lawnmower Shed was currently not open after 15:00, except when there was a temporary events notice, such as last Friday when it closed at 19:00. Normally it would not open until 22:00.

Councillor Gabbert enquired how the temporary events went and the Applicant said there had been some feedback about the marshals and parking. In reply to Councillor Tunnicliffe's query, the Applicant said everyone had left the site by 19:30.

The Chairman pointed out that under the Council's licensing policy a licence would not be granted unless there was planning permission. He asked if there were any reasons for making an exception. The Applicant replied by saying there was a legitimate prospect that permission would be granted and within 8 weeks.

The Licensing Officer asked which building was the subject of the application and the Applicant confirmed it was just the Lawnmower Shed. In relation to the condition about pre-booked events, there would only be events related to what the club does, such a football themed children's birthday party. The Applicant confirmed that there would be on-sales only. The Applicant would arrange for a designated premises supervisor, who would be hired directly or sub-contracted.

In reply to Councillor Gabbert's question about events, the Applicant explained the intent was for it to be a family sports related club rather than a commercial sports club where rooms were hired out. They did not want to undermine the ethos and have events that did not come under the umbrella of sport and family.

Objectors

Councillor Harris asked about the planning application for the Lawnmower Shed and the Applicant confirmed it was for conversion to a cafe with outside seating and a pergola. The event on May 20<sup>th</sup> was discussed and in particular parking and highway safety. Councillor Harris concluded by saying if a licence were granted, it should be members only and with alcohol only while sport was being played.

Mr Tullett set out problems with the event last Friday. He queried if children would benefit from easy availability of alcohol at the ground and said he was concerned by noise and anti-social behaviour. The Applicant confirmed the application was not for an open-air pub.

Mrs Cape said she represented the Park Langley Residents Association. She pointed out there were no windows or doors to close, so she believed it would cause a public nuisance to residents. Alcohol may lead to anti-social behaviour. There would be long hours at weekends and during holidays, so residents would have no peace. If approved, the licence should be for members and guests only and no alcohol on Sundays.

Councillor Grant said outdoor drinking and noise would cause a nuisance. There was a public safety concern with use of the alleyway. Players drinking could create anti-social behaviour and there was no synergy between youth sport and alcohol.

Answering Councillor Tunnicliffe's question, the Applicant confirmed there was no seating available within the Lawnmower Shed.

The Applicant finished by saying the process had been a learning curve. They were working on improving the facility and the Lawnmower Shed was part of that. The club was open to working within constraints but wanted to move forward. The application would not be amended though to members only or changing the hours of operation.

Decision

Following a short adjournment, members returned and the Chairman announced the application was refused as it was contrary to the Council's policy that planning permission was needed first. There was no reason to make an exception.

## Reasons

### **The following are the reasons for the decision.**

The Licensing Sub-Committee carefully considered the application for a new premises licence at L.A. Sports Club, St Dunstan's Lane, Beckenham, BR3 3SS. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003
- All written and oral representations by the Applicant
- All written and oral representations by local residents
- All written and oral representations by members
- All written representations by responsible authorities

Members noted the absence of any objection from any responsible authority other than the Planning Authority, which stated there was no planning permission for the Lawnmower Shed or its use. The Applicant did not disagree and has submitted a planning application.

Members noted that many of the representations made by objectors (for example parking problems, access and traffic) related to matters which were most suitably considered as part of the planning process. Although Members greatly appreciated those concerns, they were constrained to focus on the promotion of the licensing objectives. No matter how much Members may have sympathised with objectors, matters of principle over the use and the wider implications of the use were outside the scope of the licensing system.

In order to reflect the limited remit of licensing, it is expected that applicants will first obtain all necessary planning permissions before applying for a premises licence. That process will allow for the wider planning issues to be assessed initially, leaving licensing sub-committees to then focus on the discrete issue of the licensing objectives. It also removes any overlap with the planning system. This approach is set out in paragraph 22.1 of the Council's Statement of Licensing Policy, which says "The Licensing Authority will not grant an application for a new Premises Licence or Club Premises Certificate unless it is satisfied that all relevant planning permissions are in place where necessary." The Applicant did not provide any reason of sufficient weight to depart from this policy. As no planning permission for the Lawnmower Shed was in place, they therefore rejected the application. The committee also noted that a separate planning application for floodlights had been made by the Club. If this was not granted, effectively use of the grounds for football would be limited to the hours of daylight, which in the depths of winter, would be at approximately 4pm.

For completeness, members went on to consider the application on its merits.

In relation to the police, they did not object provided that their conditions were attached, which the Applicant said they agreed to. Members were therefore reassured in relation to the prevention of crime and disorder. Although mention had been made at the hearing of graffiti appearing after the event at the grounds last Friday, there was no evidence of any connection with the premises.

Some objectors had alleged the vehicular and pedestrian access to the premises was dangerous. Members noted the Secretary of State's Revised Guidance, which says in paragraph 2.7 this objective concerns the safety of people using the premises. Members concluded that concerns of highway safety should be considered in connection with the planning application. Members therefore did not identify any grounds for concluding there would be a risk to public safety in the licensing context.

While some objectors had queried how it would be compatible for the club to be both family friendly and still serve alcohol. Members took into account the Council's Statement of Licensing Policy, that the access of children to licensed premises will only be limited where it is necessary for the prevention of physical, moral or psychological harm (P27). No such harm was identified. There was no objection from the child protection team, subject to conditions to which the Applicant agreed. Members therefore reached the conclusion that children would be protected from harm.

Members shared, with objectors, concerns in relation to noise. The premises were located in a residential area in a shed where there had never been licensed activities. While there would be some noise from use of the facilities for football, granting the licence for the premises would result in additional noise and disturbance. Members went on to consider if this would be so disproportionate or unreasonable as to amount to a public nuisance.

Members concluded that, if the premises were operated in such a way as to make it a destination venue, which would attract customers for the sole purpose of drinking it was likely that this would be a public nuisance. In contrast, if the premises were operated in accordance with the Applicant's stated intention of being ancillary to football, there was less chance that it would be a public nuisance.

As a consequence, if Members had been minded to grant the licence, they would have imposed conditions in order to ensure that the primary purpose of the license was to provide a drink for spectators and players whilst the football was taking place and for a short time thereafter. Consideration would have been given as to whether the sale of alcohol would be limited by a condition of club membership and temporary membership for the day in question for visitors. Had the committee been in a position to determine the application they would have also wished to consider a limitation on the area within the club grounds where alcohol could be consumed.

Chairman