

# Licensing Sub-Committee

**Date: Thursday, 15th October, 2020**

**Time: 10.00 am**

**Venue: Virtual Meeting - Zoom - Public Access via  
YouTube**

**<https://www.youtube.com/bathnescouncil>**

**Councillors:** Manda Rigby, Sally Davis and Steve Hedges

Chief Executive and other appropriate officers  
Press and Public

**A briefing session for Members will be held at 9.30am.**



**Mark Durnford**

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## NOTES:

1. Inspection of Papers: Papers are available for inspection as follows:  
Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. Details of decisions taken at this meeting can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. Broadcasting at Meetings: -  
The Council will broadcast the images and sounds live via the internet  
<https://www.youtube.com/bathnescouncil>

The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. Public Speaking at Meetings  
The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may also ask a question to which a written answer will be given. Advance notice is required not less than two full clear working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme:  
<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. Supplementary information for meetings  
Additional information and Protocols and procedures relating to meetings  
<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

**Licensing Sub-Committee - Thursday, 15th October, 2020**

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**A G E N D A**

1. WELCOME & INTRODUCTIONS
2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS
3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

- (a) The agenda item number in which they have an interest to declare.
- (b) The nature of their interest.
- (c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**,  
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR
5. MINUTES OF PREVIOUS MEETING - 24TH SEPTEMBER 2020 (Pages 7 - 12)
6. TAXI PROCEDURE (Pages 13 - 16)

The Chair will, if required, explain the procedure.

7. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“the Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVES** that the public shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

8. CONSIDERATION OF FIT AND PROPER - 1902441TAXI (Pages 17 - 86)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

**BATH AND NORTH EAST SOMERSET**

**LICENSING SUB-COMMITTEE**

Thursday, 24th September, 2020

**Present:-** Councillor Manda Rigby (Chair), Councillor Steve Hedges and Councillor Sally Davis

**Also in attendance:** Terrill Wolyn (Senior Licensing Officer) and Shaine Lewis (Team Leader Resources - Legal Team)

**15 WELCOME & INTRODUCTIONS**

The Chair welcomed those present to the meeting and introduced the other members of the Sub-Committee and the officers in attendance.

**16 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**17 DECLARATIONS OF INTEREST**

The Chair informed those present that she had been copied into an email from another councillor regarding Piplely Barn Cafe, querying the licensing application. She added that she had only acknowledged receipt of the email, had not discussed the application and had disregarded any observations made in relation to the application. The Chair indicated that she had an open mind in relation to the application and would not make her mind up until she had considered the report, all relevant factors contained within it and heard all points of view at the hearing.

**18 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**19 MINUTES OF PREVIOUS MEETING - 9TH JULY 2020**

These were approved as a correct record.

**20 LICENSING PROCEDURE**

The Chair explained the procedure for the meeting to all parties who were present.

The parties confirmed that they understood the procedure to be followed for the hearing.

**21 NEW PREMISES LICENCE APPLICATION - PIPELY BARN CAFE, LANSDOWN, BATH. BA1 9BZ**

The Senior Licensing Officer outlined the application from Charles Simpson to the Sub-Committee. She explained that it was for a new Premises Licence for Piplely Barn Café, Brockham End, Lansdown, Bath. BA1 9BZ.

She said that the application proposes the following licensable activity:

The Sale of Alcohol for consumption on and off the premises:

Monday to Thursday 08:00 – 21:00

Friday to Sunday 08:00 – 23:00

The application proposes the following opening times:

Monday to Thursday 08:00 – 21:30

Friday to Sunday 08:00 – 23:30

She informed the Sub-Committee that twenty four representations of objection had been received from interested parties within the statutory period, all expressing concern that the applicant's proposals are likely to have a detrimental effect on the Prevention of Public Nuisance licensing objective; three of these representation of objection also make reference to the Public Safety licensing objective.

She confirmed that none of the Responsible Authorities had made any representations relating to the application.

She reminded those present that matters such as Planning, Parking, Traffic and Highways were not matters that could be considered by the Sub-Committee.

Charles Simpson stated the case for the applicant and was questioned by Members and the interested parties present.

He said that since submitting the application he had been made aware of a planning permission restriction on the hours that the café is allowed to open, and while he had been opening 10.30-17.00, the planning permission limits the hours to 9.00-16.00. He said that he has now changed the opening hours to 10.30-16.00 to bring it into compliance.

He added that he would still be seeking a licence to allow him to serve alcoholic refreshments to guests of the bunk barn to the hours specified in the application, which are until 9.00pm Monday to Thursday and 11.00pm on Fridays, Saturdays and Sundays. He stated that they are not currently operating the bunk barn, but this is only due to current Covid-19 restrictions.

He said that Piple Barn is designed and set up to accommodate up to 19 guests and that they plan to reopen the accommodation as soon as possible, though it was unlikely to be this year.

Councillor Mark Roper stated the case on behalf a number of the interested parties and was questioned by Members and the applicant. He said that the local area surrounding the café was a tranquil outdoor space that was seen as an essential resource for local health and mental health needs.

He also stated that they objected to the applicant's proposal of 4 events per month as the site was not suited to large events.

He said that there had been a growth in activity on the site since the date for representations had closed. He added that the interested parties he was representing would request the sale of alcohol to be restricted to 09:00 to 16:00 to bring it in line with the current planning permission which details the café as being ancillary to a bunk barn.

### **Decision and reasons**

Members have determined an application for a new Premises Licence at Piple Barn Café and Bunk Barn, Lansdown. In doing so, they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives on the information before them. Members reminded themselves that each application must be considered on its own merits.

The application was not for a public house but rather a café offering alcoholic refreshments to passing trade, guests staying in the bunk barn and people attending pre-booked musical events, talks, lectures and private functions in the evenings. Such events must be pre-booked and will be low key given the space limitations.

The applicant stated that since making the application he has been made aware of the planning restriction relating to opening hours and that the opening hours of the café have now been changed to comply whilst also complying with any Covid-19 requirements. He further stated that he was aware that any Licence granted could only ever operate in alignment the planning consent.

In terms of the bunk barn whilst the hours sought are until 9.00pm Monday to Thursday and 11.00pm Fridays Saturdays and Sundays the barn is not currently operational due to Covid-19 and in any event can only accommodate up to 19 guests.

With regards to the café providing alcohol after 6pm the following additional conditions were offered: -

- After 6.00pm on any day, alcohol will only be served to persons who have previously booked, or bought tickets, to attend an evening event pre-organised for that particular date; no admission would be permitted to any members of the public after 6.00pm who had not booked or purchased tickets.
- Events held at the premises after 6.00pm hours shall be limited to a maximum of four per calendar month.

The Interested Parties raised the Prevention of Public Nuisance and Public Safety Licensing Objectives by way of representation. With regards to Public Nuisance there was a strong possibility that the tranquillity of the area would be detrimentally affected if the application was granted and large weekly events ran until 11pm. This was on the basis that the café had already caused nuisance from noise and most recently when an event held in a marquee created noise until after midnight. The Interested Parties did, however, state that if the applicant were able to comply with the many planning conditions and reduce the sale of alcohol to between 9am and 4pm the premises might not cause a noise nuisance.

In determining this application Members reminded themselves of the Statutory Guidance and their Statement of Licensing Policy and were careful to take account of relevant written and oral representations and balance their competing interests. Members were, however, careful to disregard matters such as those governed by other statutory regimes and issues not attributable to the requested licenced activity. For example, planning consent, amenity and enforcement, traffic risks, noise and parking, wellbeing and need, the character, appearance and wildlife of an area and the health and safety of those not on the premises. Accordingly, and whilst Members were mindful of other statutory controls, the Statement of Licensing Policy is clear in that there shall be no duplication of other regimes by condition or restriction and licensing should not be used as a re-run of the planning process as different considerations apply.

With regards to public nuisance Members reminded themselves that, whilst licensing authorities and responsible authorities should consider what constitutes public nuisance, conditions to mitigate the effects of sound escaping from live or recorded music may not be enforceable where the activity itself is not a licensable activity. In this regard Members noted the applicant had not applied for regulated entertainment which includes, for example, the performance of live or recorded music, plays or dance.

In terms of nuisance Members noted incidents of noise escaping from the premises was raised by Interested Parties. Members noted, however, that there had been no representation from Environmental Protection or the Police and the Interested Parties confirmed they had made no complaint them in terms of noise. Whilst Members acknowledged the genuine concerns held by the Interested Parties the activities complained of are not subject to this application and cannot be conditioned or prohibited by the Licencing Sub Committee.

Members empathise with the Interested Parties' legitimate concerns and representations. Nevertheless, the general thrust of the representations related to noise associated with music and voice on the premises and separate statutory regimes. Accordingly, Members considered they were unable to regulate such activities. In terms of the application for the sale of alcohol from the café and bunk barn Members find the application reasonable, and appropriate conditions were contained in the operating schedule as agreed with the Police and put forward by the applicant in additional information. Moreover, there has not been any evidence, or information, put forward to base a reasonable belief that the sale of alcohol from the premises would have a detrimental effect on any of the licencing objectives. Accordingly, Members do not depart from Policy or Guidance and grant the application as applied for with the additional conditions offered by the applicant.

Authority is therefore delegated to the licensing officer to issue the licence with conditions consistent with the operating schedule and the additional conditions as follows:

- After 6.00pm on any day, alcohol will only be served to persons who have previously booked, or bought tickets, to attend an evening event pre-organised for that particular date; no admission would be permitted to any members of the public after 6.00pm who had not booked or purchased tickets.
- Events held at the premises after 6.00pm hours shall be limited to a maximum of four per calendar month.

The meeting ended at 11.05 am

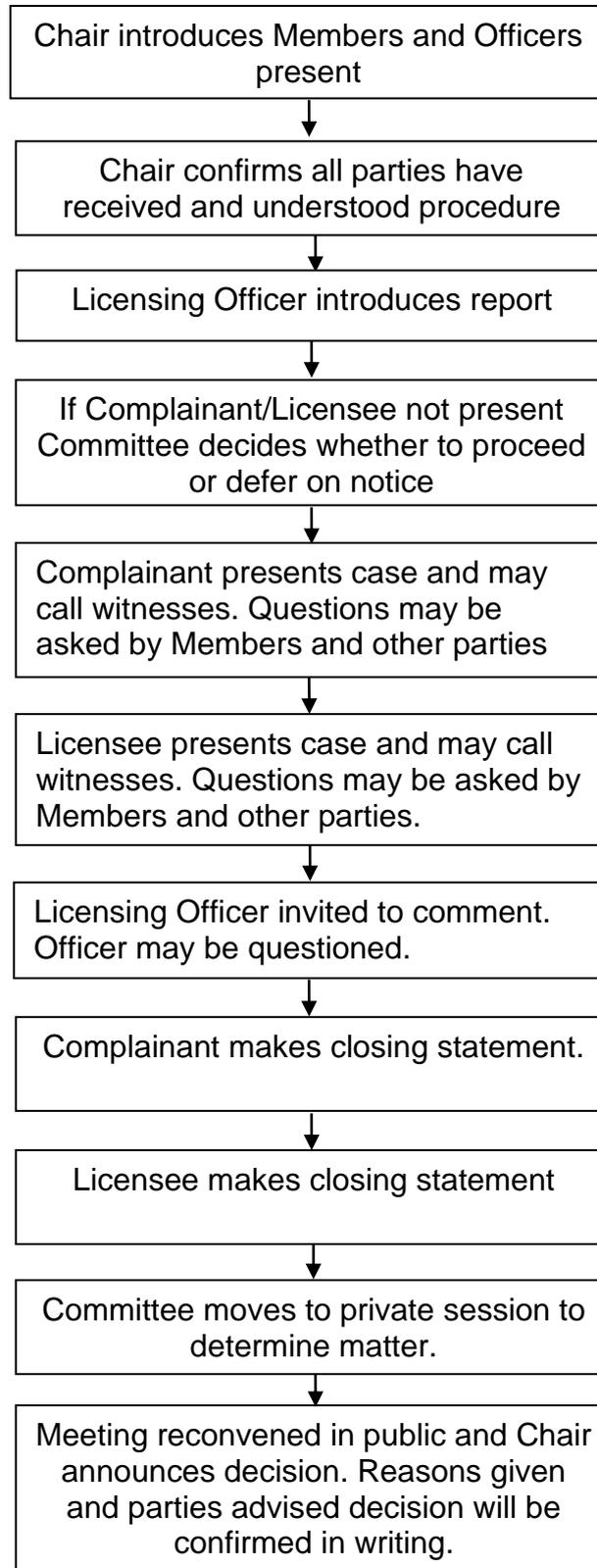
Chair(person) .....

Date Confirmed and Signed .....

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**LICENSING SUB-COMMITTEE  
HACKNEY CARRIAGE (TAXI) AND  
PRIVATE HIRE VEHICLES COMPLAINT PROCEDURE**



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**Licensing Sub Committee  
Hackney Carriage and Private Hire Drivers  
Complaint Hearing Procedure**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Complainant presents their case, may call witnesses and may be questioned by the Committee and other parties. Where a written complaint has been made the complaint will be read by the Committee. The procedure will be repeated should there be more than one complainant.
4. The Licensee presents their case, may call witnesses and may be questioned by the Committee and other parties.
5. The Chair will ask the Licensing Officers present whether they wish to comment. An Officer making comment may be asked questions.
6. The Complainant is invited to make a closing statement
7. The Licensee is invited to make a closing statement.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

### **PLEASE NOTE:**

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

#### **N.B.**

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
  2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
  3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
  - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
  - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

### Access to Information Arrangements

#### Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA 902/20
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 15 <sup>th</sup> October 2020
Author: John Dowding
<p><b>Exempt Report Title:</b> Consideration of Fit and Proper  <b>Exempt Appendix Title(s):</b>  Exempt Annex A- Current Licence.  Exempt Annex B- Correspondence Ref Failed Compliance Test July 2019.  Exempt Annex C – Notice of Failure of MOT &amp; Compliance Test 22nd October 2019.  Exempt Annex D – Operators Records 22nd October to 29th October 2019.  Exempt Annex E – Operators Records 22nd October to 29th October 2019.  Exempt Annex F – MOT Certificate &amp; Compliance Test Issued 29th October 2019.  Exempt Annex G – Correspondence ref Failed Compliance Test October 2019.  Exempt Annex H – Chronology of Previous Recorded Incidents.  Exempt Annex I – Breach of Licensing Conditions.  Exempt Annex J – Complaint  Exempt Annex K – Complaint  Exempt Annex L = Contemporaneous Notes of Interview.  Exempt Annex M – Complaint  Exempt Annex N – Breach of Licensing Conditions.  Exempt Annex O – Complaint  Exempt Annex P – Incident of Alleged Aggressive Behaviour.  Exempt Annex Q – Policy on Driver, Vehicle &amp; Operator Standards.</p>

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report and appendices be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

#### PUBLIC INTEREST TEST

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed. Further, as any information revealed by the Disclosure and Barring Service (DBS) is likely to constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;

- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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