

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Thursday, 31st October, 2024, 10.00 am

**Councillors:** Steve Hedges (Chair), Toby Simon and Ann Morgan

**Officers in attendance:** Carrie-Ann Evans (Team Leader, Legal Services) and Geoff Cannon (Public Protection Officer (Licensing))

### **75 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

### **76 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

### **77 DECLARATIONS OF INTEREST**

Councillor Toby Simon declared an other interest with regard to agenda item 7 (Application for a New Premises Licence for: King Edwards School, Bath, Pavilion and Playing Fields) as he said that he personally knew the representative from Bathampton Parish Council who were objecting to the application. He added that this would in no way have any impact on the decision made by the Sub-Committee and asked all parties present if they had any objection to him sitting on the Licensing Sub-Committee.

There were no objections from the applicant or objectors towards Councillor Simon remaining as a member of the Sub-Committee following this declaration.

### **78 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

### **79 MINUTES OF PREVIOUS MEETING: 3RD OCTOBER 2024**

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 3<sup>rd</sup> October 2024 and they were duly signed by the Chair.

### **80 LICENSING PROCEDURE**

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

**81 APPLICATION FOR A NEW PREMISES LICENCE FOR KING EDWARDS SCHOOL BATH PAVILION AND PLAYING FIELDS, BATHAMPTON, BATH. BA2 6SY**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that an application has been made under s.17 of the Licensing Act 2003 by King Edward's School, Bath for King Edwards's School, Bath, Pavilion and Playing Fields, Bathampton BA2 6SY for a new Premises Licence.

He stated that 48 relevant representations of objection had been received from local residents and other interested parties within the statutory period and 3 representations of support for the application had also been received.

He said that the application proposes the following licensable activities:

- The sale of alcohol (for consumption on the premises only) 12:00 – 23:00 every day.
- Performance of Dance, Exhibition of Film and Performance of Plays (outdoors) 14:00 – 22:00 every day.
- Performance of Live Music (indoors and outdoors) 10:00 – 22:00 every day.
- Performance of Recorded Music (indoors and outdoors) 10:00 – 23:00 every day.

He informed the Sub-Committee that the application proposes the following opening times:

07:00 – Midnight every day.

He stated that a number of measures had been offered by the applicant to promote the licensing objectives within their application and that following a consultation with the police during the statutory 28-day period, the applicant agreed to amend the original application and has presented additional measures to promote the licensing objectives.

Ewen McGregor, solicitor for the applicant, was accompanied by Peter Brockwell (KES Estates & Facilities Manager) addressed the Sub-Committee. He stated that there was no intention for the playing fields to be in operation for 365 days a year and that the licence, if granted, would support existing events held at the site.

He said that all events would be run and managed by the school by way of a schedule of conditions and stated that no event under the premises licence would be run by a third party.

He explained that the school is a registered charity and that any profit from events held would be put back into the school and to aid their outreach / community programmes.

He said that matters such as parking, wildlife and traffic, that had been raised in objection to the application, were not matters that were within the remit of the Sub-Committee.

He outlined that the licence would support the currently annually held sport festivals, the showing of films and any potential weddings. He added that the site was not a music festival location and that in the event of a high attendance event stewards and SIA (Security Industry Authority) staff would be in place.

He stated that no objections to the application had been received from the police or any of the other responsible authorities.

He explained that under the licence there would be no more than 10 events per calendar year that either a) finish after 6pm or b) have more than 500 people present. He added that if capacity of the event is over 500 this shall be submitted to the Licensing Authority, the Police, and the Emergency Planning Authority one calendar month in advance of the event and when the proposed maximum occupancy shall exceed 2,000, two calendar months' notice shall be required.

He informed the Sub-Committee that a Noise Management Plan would be developed by the school and implemented ahead of any licensable activity taking place at the premises.

He stated that the measures offered by the applicant had addressed all four of the licensing objectives, that the school has worked hard on its brand and reputation and that it was committed to working with the Council and community.

Councillor Toby Simon asked if any off-site parking for events could be arranged to reduce traffic in and around the village.

Ewen McGregor replied that as with the upcoming Laser Firework event they could consider the provision of a shuttle bus to events held on the site.

The Chair asked if the terminal hour for the sale of alcohol could be reduced to 22.00 for any of the events planned.

Ewen McGregor replied that the hours applied for are there as a guide and would take instructions from the applicant whilst the hearing was ongoing as to whether any reduction could be made.

Richard Smith stated that the applicant had referred to the community a lot within their oral submission, but said that despite the site being surrounded by residents no direct contact had been made with them prior to the application.

The Public Protection Officer (Licensing) replied that the applicant had complied with all regulations whilst submitting their application, including notices around the perimeter of the site and an advertisement within the local newspaper.

Ewen McGregor added that a letter on behalf of the applicant had now been sent to all parties who had registered an objection to the licence.

Tim Williams asked, if granted, would the licence allow i) 10 events per year with a capacity of 3,000 and ii) enable numbers of 499 people and under to attend events held every day of the year.

Ewen McGregor replied that yes this would be allowable should the licence be granted.

Stephen Haigh referred to a VW Camper Van rally that had been previously held on the site and asked if that were to be included within the 10 events per year.

Ewen McGregor replied that this event did not include any licensable activities.

Bernadette Metters asked why the applicant has applied for a 24/7 licence within a residential area.

Ewen McGregor replied that the licence applied for was not 24/7 and that the school is looking for ways to provide facilities for its staff and the wider community.

Stephen Haigh addressed the Sub-Committee and explained that he lives on a boat within a few metres of the playing field and that it is a quiet and tranquil area.

He said that when the pavilion has been in use for events that he finds it hard to sleep until they have concluded. He added that he wishes to continue to enjoy the peace and quiet that the area generally provides.

David Beard addressed the Sub-Committee and said that he lives 20 yards from the entrance to the field. He stated that he had received no communication from the school over the use of the field and that when events are held there, they are intrusive.

A representative from Bathampton Parish Council addressed the Sub-Committee and said that they were concerned over future use of the field and the prospect of a capacity of 3,000 people.

She added that the use of a shuttle bus for events might be considered welcome by some, but could still cause issues with a lot of movements around the village.

Councillor Toby Simon asked if she had any proposals to amend the operating schedule.

She replied that they would like outdoor events to cease by 20.00.

Michael Peddar addressed the Sub-Committee and said that as a local resident he was tolerable of the sporting events that take place on the field, but said that the prospect of 3,000 people in attendance was shocking.

He added that coaches used for transporting pupils for sport were already an issue.

Tim Williams addressed the Sub-Committee and said that the values and community nature expressed by the applicant today had not been shown during the application process and that he was concerned that the licence would allow for many events, with under 500 people, to take place.

He asked the members of the Sub-Committee to consider how they and their residents would feel about such a proposal in their local area.

Richard Smith addressed the Sub-Committee on behalf of the Harbutts' Residents Association and said that he wholly supports sport as part of the school curriculum, but said that other events on the site were a clear nuisance, especially those that finish after 10pm.

Alistair Mathers addressed the Sub-Committee and informed them that he was a Bathampton resident and that his home looked directly over the site. He acknowledged that activities had taken place on the site for many years.

He said that he felt that the school were seeking to industrialise their current practice and asked that they rethink their application.

Bernadette Metters addressed the Sub-Committee and said that as her house was built in 1760 it is not able to have double glazing fitted and has known her windows to rattle during certain events. She added that people, when attending events, do not always proceed to go straight home as they walk up and down Dark Lane.

She said that she was concerned that if the licence is granted there will be havoc, that it was an erosion of public life and would not be a liveable neighbourhood.

Stephen Haigh addressed the Sub-Committee to inform them that local boat dwellers must stop making noise from 8pm and so to be fair to all this is the time that events should cease.

He added that the canal was the biggest traveller site in the country, was in close proximity to the field and that this community is protected under the Equalities Act.

A representative from Bathampton Parish Council made a summing up statement on behalf of those present who were objecting to the application. She said that concerns remain on how the licence will be used in the future to potentially attempt to make more money.

She added that the village has already accepted some degree of disruption from events held, but said that it is a lovely setting and they would not want it to change further.

Stephen Haigh added that the noise from events is currently tolerable, any more and it would not be.

The Chair asked if any complaints had been received in relation to previous events held on the site.

The Public Protection Officer (Licensing) replied that he was not aware of any event objections in relation to a previous Temporary Event Notice (TEN) that had been in place for an event in 2021.

The representative from Bathampton Parish Council added that she was not aware of any complaints that had been made.

Ewen McGregor made a summing up statement on behalf of the applicant. He said that they respect the concerns that have been raised, but note that some of these fall outside the remit of the Sub-Committee.

He stated that the applicant has provided evidence as to how they will promote the licensing objectives and that there should not be adverse speculation on how the future activities on the site will be carried out.

He said that the applicant would not 'industrialise' its current activities and that there have been no objections to the application from the police or any other of the responsible authorities. He added that following consultation with the police the applicant has agreed to additional measures being put in place should the licence be granted.

He stated that no event under the premises licence would be run by a third party and that there was no intention to hold a large number of events within the year.

He said that larger events would be ticketed and reiterated that if the capacity of an event is over 500 this shall be submitted to the Licensing Authority, the Police, and the Emergency Planning Authority one calendar month in advance of the event and when the proposed maximum occupancy shall exceed 2,000 two calendar months' notice shall be required.

He said that the applicant does not plan in any way to hold events until 11pm for 365 days of the year and would not abuse the privilege of having such a licence if granted.

Councillor Toby Simon asked if he had been able to consult with the applicant regarding whether the terminal hour for the sale of alcohol could be reduced to 22.00 for any of the events planned.

Ewen McGregor replied that the applicant had agreed that when the exhibition of film takes place the sale of alcohol will cease at 10pm.

### **Decision & Reasons**

Members have determined an application for a new Premises Licence at King Edwards School, Bath Pavilion and Playing Fields, Bath, BA2 6TR. In doing so Members have taken into consideration matters including the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998, Equality Act 2010 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. Members had regard to the case of R. (on the application of Daniel Thwaites Plc) v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin).

Members had regard to 2 lots of additional information provided on behalf of the applicant and circulated to the objectors in advance of the hearing. The first lot comprised written submissions and 5 annexes. The second comprised an information document produced by the Canal & River Trust in relation to the Bathampton L1 Leisure mooring site.

Members had regard to 1 lot of additional information provided by Dr Stephen Haigh who had objected to the application, and this had been shared with the applicant in advance of the hearing.

### **The Applicant**

Ewen McGregor, solicitor for the applicant addressed members in oral representations and had provided written submissions in advance of the Licensing Sub Committee, referred to above as additional information. It was indicated by Mr McGregor that the purpose of the application was to support existing sporting events and a limited number of additional events where the revenue generated would help to support the school's bursaries, outreach and community programmes. When hosting a rugby festival this can attract up to ten to twelve visiting teams and parents, for which the number of people in attendance is in excess of 500. These events already take place, but they do not need a licence. The school is due to host a Laser Fire Works Night under a Temporary Event Notice with a limit of 499 people in attendance and would like to host occasional film events on the playing grounds, as well as dinners or wedding celebrations on site. Mr McGregor assured Members that the school would always have oversight and management of events and would not hire out the premises to third parties to run the events; the applicant was happy to agree to a condition to that effect.

Mr McGregor indicated in oral representations and the written submissions that it is not and never has been the intention of the school to host the type of festivals as is suggested in some of the representations to the application. It was noted that none of the Responsible Authorities were objecting to the application and none of them had sought to amend the hours for the provision of licensable activities. Mr McGregor referred Members to the Statutory Guidance where it provides that Responsible Authorities are experts in their respective fields.

Mr McGregor noted that some of the concerns raised by residents were outside of the remit of the Licensing Sub Committee, such as parking, animals and wildlife and the fact that the premises falls within an Area of Outstanding Natural Beauty. He further noted that the school is sympathetic to the concerns of the local residents and will continue to work hard at maintaining good working relationships with the local community. He submitted to Members that the proposed licensable activities will not undermine the licensing objectives, and the proposed Operating Schedule including schedule of conditions agreed with the police, will promote the licensing objectives.

If the licence is granted, Mr McGregor indicated that the applicant was agreeable to conditions that:

- When the exhibition of film takes place the sale of alcohol will cease at 10pm; and
- Where an Event Management Plan is required, it shall specifically address the arrangements for traffic and parking management and for transport of attendees. This was in relation to proposed condition 4 on the Schedule of Conditions.

## **Other Persons**

There were 48 relevant written representations of objection, and 8 of those people made oral representations before the Licensing Sub Committee. Objections were based upon all four licensing objectives. One of these objections was made by Harbutts' Residents Association, one by Bathampton Parish Council and one by Councillor Sarah Warren.

Objections related to the public nuisance that would be caused to residents of the village, boaters living on the canal, the large population of children, the elderly and vulnerable people who reside in The Harbutts and St Nicholas' Court, as a result of the noise generated by outdoor music, the audiences, the number of people attending events and the location being in a valley which would result in sound being transmitted to all adjacent areas of Bathampton, Batheaston and Bathford. It was indicated that the events that have already been held at the pavilion are unreasonably noisy, with the sound of loud music and shouting carrying over the playing fields to adjacent properties.

Concern was expressed that music events with alcohol often lead to anti-social behaviour and the consumption of illegal drugs which may well lead to littering and vandalism. It was said that the noise would negatively affect the sleep of children and would spoil the enjoyment of boaters' leisure facility. The noise from music was expected to travel much further and an objector described this as an "environmental health issue".

In his additional information and oral representations to Members, Mr Haigh indicated that he had lived next to the school field for 14 years in his second home which is a boat. He resides there for almost half of the year. He expressed concern that bigger rugby matches, crowds, alcohol and outdoor music would equal a lot more noise and indicated that it is not possible to sleep until music in the pavilion stops. Noise from the school has already started to have an impact and Mr Haigh submitted that any more noise will seriously impact the quality of life for people whose homes surround the school field.

Mr Haigh referred to Travellers who moor adjacent to the field between Harbutts estate and Tynning Road and the protection afforded to them under the Equalities Act 2010. Mr Haigh described the tranquility that he enjoys and said you can hear a pin drop at night at the moment, unless there is an event going on in the pavilion. Mr Haigh referred to matters such as ecological awareness and the bat population, which are not issues that fall within the remit of the licensing sub-committee.

Numerous objectors referred to concerns related to parking and traffic issues in their oral and written representations however, members noted that those were matters covered by other statutory regimes and not the remit of the Licensing Sub Committee.

3 written representations in support of the application were received indicating that they thought the proposal was a fantastic idea, would bring much needed culture and entertainment to the Bath area. One indicated that they thought it would provide lots of much needed local events for residents and young families. The proposal was described as a positive move for Bathampton.



In determining this application Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members disregarded matters outside of the scope of their remit such as ecology, bats and parking, which fall within the scope of other regulatory regimes.

Members noted that paragraph 1.16 of the Statutory Guidance provides that *“Conditions on a premises licence...are important in setting the parameters within which premises can lawfully operate...Licence conditions: should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.”*

Members were mindful of the Statutory Guidance which provides at paragraph 2.1 that licensing authorities should look to the police as the main source of advice on crime and disorder and with regard to paragraph 9.21, it provides that each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective.

Members noted that there had been no objections from Responsible Authorities in relation to the application.

Paragraph 2.27 of the Statutory Guidance relates to public nuisance and provides as follows: *“Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and respect the rights of people living nearby to a peaceful night.”*

In terms of public safety, the Statutory Guidance provides *“Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act. This can include ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation.”*

In reaching its decision Members had regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty. This duty means that Members must have due regard to the need to: (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Members also had regard to the Human Rights Act 1998.

Members having considered all the evidence, which includes the application, additional information, representations from other persons, the Operating Schedule, Schedule of Conditions negotiated between the applicant and police and conditions offered today, do not think that Travellers or other people with protected characteristics will be discriminated against by the proposal and consider that the measures offered by the applicant will promote the licensing objectives.

Authority is therefore delegated to the licensing officer to issue the licence in accordance with the Operating Schedule, subject to the Schedule of Conditions agreed between the applicant and the police, the mandatory conditions and the following additional conditions which were agreed to by the applicant today. Members consider these additional conditions to be appropriate and proportionate in the promotion of the licensing objectives:

1. No event under the premises licence will be run by a third party.
2. When the exhibition of film takes place, the sale of alcohol will cease at 2200 hours.
3. Where an Event Management Plan is required, it shall specifically address the arrangements for traffic and parking management and for transport of attendees.

The meeting ended at 2.02 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**