

# Crawley Borough Council



## Minutes of Licensing Sub Committee Thursday 29 April 2010 at 7.00pm

### Present:

Councillors      K Blake, B J Quinn and D J Shreeves

### Officers Present:

Tony Baldock	Group Manager for Food, Licensing and Occupational Health
Simon Cole	Senior Health & Safety Enforcement Officer ( <i>Observing</i> )
Mike Lyons	Senior Licensing Officer
Sharon Rana	Legal Clerk
Chris Pedlow	Committee Clerk

### Apology for Absence:

Councillor      J A Singh

### Also in Attendance:

Applicant	Nigel Sheehan Applicant (Crawley Borough Council's Head of Community Services)
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Objectors	Mike Greener Objector
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	David Lake Objector
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### 57. Appointment of Chair

#### RESOLVED

That Councillor B J Quinn be appointed Chair for the meeting.

### 58. Members' Disclosure of Interests

The following disclosures of interests were made by Members:-

<b>Member</b>	<b>Minute Number</b>	<b>Subject</b>	<b>Nature of Disclosure</b>
Councillor D J Shreeves	Minutes 57, 58 and 59	Application for the Grant of New Premises Licence for Maidenbower Park Community Pavilion	Personal and Non-Prejudicial Interest, as Councillor Shreeves holds a personal licence
Councillor D J Shreeves	Minutes 57, 58 and 59	Application for the Grant of New Premises Licence for Maidenbower Park Community Pavilion	Personal and Non-Prejudicial Interest, as Member of the Development Control Committee that had previously considered the planning application for the Maidenbower Park Community Pavilion

#### **59. Application for the Grant of New Premises Licence for Maidenbower Park Community Pavilion**

The Sub Committee considered an application for the grant of a New Premises Licence in respect of the Maidenbower Park Community Pavilion, Maidenbower, Crawley.

The Legal Clerk informed all parties that the Sub Committee Members had requested a briefing meeting with the Legal Clerk prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting. It was confirmed that the Sub Committee had not asked for clarification of any aspect of the application or on the representations received from any party.

The Legal Clerk then asked both the Applicant and Objectors, if they wished to request either an adjournment or the opportunity to cross examine the opposite party. All parties confirmed that they did not require an adjournment. However both Mr Lake and Mr Greener that requested the opportunity to cross examine. The Sub Committee agreed to their requests.

Report PS/0394 of the Council's Head of Planning and Environmental Services was presented by Mike Lyons, the Senior Licensing Officer for Crawley Borough Council.

#### **The Application**

An application for a New Premises Licence under the provisions of the Licensing Act 2003 for Maidenbower Park Community Pavilion, Maidenbower had been submitted on 15 March 2010 by, the Applicant, Mr Nigel Sheehan, Head of Community Services for Crawley Borough Council. A copy of the application was set out in Appendix A to the report, which included the information provided by the Applicant as to how it was proposed to promote the four licensing objectives. The application requested that the premises be licensed for the following 'Hours Open to the Public' and 'Licensable Activities' from Monday to Friday, 0900 – 2300, Saturday 0900 – 2330 and Sunday 0900 – 2200, with the exception of the Licensable Activity of Late Night Refreshment (l), which was just for Saturday between 2300 – 2330.

It was confirmed that the application had been advertised in the press and notices had been displayed at the premises during the consultation period in accordance with the statutory requirements, and the Council's Licensing Policy Statement.

Members were informed that following the consultation period, the Licensing Authority had received two responses from 'Responsible Authorities,' Building Control and the Planning Authority. Both of those Authorities had said that they did not have an objection to the proposals continued within the application, as detailed in paragraph 2.1 of the report.

The Licensing Authority also received two submissions from interested parties (local residents) Mr David Lake and Mr Michael Greener, both objecting to the proposal. It was noted that both objections were on the premise that the application did not promote the licensing objectives of 'the prevention of crime and disorder'; 'public safety'; and the 'protection of Children'. Mr Lake's representation also cited the licensing objectives of 'the prevention of Public nuisance'. Members were informed that a copy of each of the representations were attached as Appendix C and D to the report, respectively.

Members were guided through the remainder of report, which set out aspects that the Sub Committee should take into consideration when dealing with the application, and details of the hearing process. The Licensing Officer then proceeded to inform the Sub Committee of the options available to them in respect of the application, noting that any decision must be based upon the promotion of the four licensing objectives. The options were to either:

1. Grant the application subject to:
  - i) conditions which were consistent with the operating schedule modified to such an extent as the Authority considered necessary for the promotion of the licensing objectives
  - ii) any relevant mandatory conditions or,
2. Exclude from the scope of the licence any of the licensable activities to which the application related, or
3. To refuse to specify a person in the licence as the premises supervisor or,
4. Reject the application, giving reasons for doing so.

### **The Applicant**

Mr Nigel Sheehan was then invited to address the Sub Committee to give the background behind the application. Mr Sheehan commented that the purpose of the Pavilion was to be a community facility serving the local and wider community and it would feature a cafeteria, multi purposes sports hall, children's play area, and outdoor sports pitches plus a new artificial football pitch. It was not proposed to use the premises daily as a 'pub,' but to allow alcohol to be sold when the Pavilion was hired out for events, when appropriate, and to allow other forms of licensed entertainment to be used.

The Pavilion would be managed in the same way that a Council owned Community Centre currently was, with the long term aspiration that the Maidenbower community would eventually take over the day to day running of the premise. Throughout the development and planning of the Pavilion the community had been involved with over 252 responses to the general consultation about what the facility should include. In

terms of promoting the licensing objectives, Section P, (page A19 of the report) outlined how that would be achieved. Mr Sheehan highlighted that Appendix B to the report provided detailed of the proposed lay out of the premises.

The Sub Committee then asked Mr Sheehan a number of questions on the application including why there was “no drinking up time” included and did the application include allowing users to sit and drink on the patio surrounding the Pavilion. Members were informed that in terms of ‘drinking up time’ it was not felt it was required as it was the hirers responsibility to ensure that the facility was completely emptied at closing as stated in their hire contract as it was with any Community centre, which would be checked by the Community Centres team. The patio would not be an area where alcohol could be consumed as the application was solely for internal use, as there was no “off the premise sales”, applied for.

### **The Objectors’ Cross Examination of the Applicant’s proposal**

Following the conclusion of the Applicant’s presentation and his response to a number of the Sub Committee’s questions, the Objectors requested an opportunity to question Mr Sheehan on his proposals. It was noted that the Sub Committee, held the right to ask either of the parties questions themselves during the cross examination.

The cross examination, was carried out by both Objectors, dealt with a number of issues and concerns about how the premise would be run, its location, the preventative measures that would be put in place to negate any additional noise emanating from the premises whilst licensable activities were being carried out. The types of questions and responses raised included the following:

One of the first issues raised, during cross examination, was whether it was a sensible location for a premise serving alcohol especially when there were residential properties less than 200m away, especially when there were other places in the neighbourhood where liquor could be purchased. Also why had only a small percentage of Maidenbower Residents been advised of this application, as most of the 8000 plus residents did not know this application had been submitted? In response Mr Sheehan commented that the application had been advertised as legally required, which was confirmed by the Licensing Officer. In terms of location, the Pavilion’s main function, was not to be a ‘pub’ but a community facility, where if required alcohol could be sold. In answer question on the consultation, it was confirmed that the local schools had not been directly consulted of the application.

The objectors further raised a concern having a licensed premise next to a children’s play area, reference was made to what processes had the Applicant put in place to stop children and those underage from getting hold of alcohol. In response Mr Sheehan, reemphasised that the aim of the Pavilion and stated that the application did not include the provision for off the premise consumption of alcohol; therefore it would be illegal for anyone to sell alcohol for consumption outside of the building. In terms of selling to underage persons that would be the responsibility of the DPS and would be enforced by the Licensing Authority and Sussex Police.

Members noted, in response to questioning over the premises adding to the existing noise and anti social behaviour problems to the vicinity, that it was not the responsibility of the applicant to deal with the existing problems not related to the premise, rather to ensure that he was not adding to additional noise. On that issue Mr Sheehan commented that, history had proved that having a community facility, like the Pavilion, in constant use has actually acted as a deterrent for antisocial activities such as joyriding. He continued by saying as the Pavilion was a Council owned building, therefore the Duty Community Officers would be visiting the premise sporadically

throughout the day and it would be also be on the 'rounds' the Community Warden. Mr Sheehan offered to provide both Mr Lake and Mr Greener with a copy of the contact numbers, so they could contact the Council if inappropriate activities were taking place in the vicinity of the Pavilion. It was noted that in terms of the other Council owned community centres, of which there were fourteen, there had been no noise complaints during the past 18 months and it was the responsibility of the Environmental Health Noise Team to deal with any concerns over unacceptable noise resonating from the premise.

The Sub Committee asked to Applicant further questions, which included whether the Pavilion going to be part of the 'pub watch' scheme or its equivalent and what plans were in place with respect of allowing drinks on the roof top viewing platform? In response they were informed that none of the Council's Community Centres were aligned directly to the pubwatch scheme, because the Council ran the scheme. With regard to the viewing platform there was nothing in the application currently stopping the public drinking on the platform.

The Licensing Officer, in response to questions by the Sub Committee, commented that there had been no submission included on behalf of the Environmental Health Noise Team or the Sussex Police, as neither Responsible Authority had responded to the application during the consultation period. Both bodies had been sent a copy and it was noted that it was common practice (if no response was received) to assume that they did not have any issues with the proposals, as if they had any concerns they would have put an objection in.

### **Objectors**

Mr Greener and Mr Lake were then invited to address the Sub Committee, to put across any further points about their objections that had not been identified during the cross examination of Applicants proposal. Mr Greener commented that in a climate where pubs/ licensed premises were going into administration, was it really the right time and more importantly the right location for the Council to be establishing a new licensed premise. Maidenbower already had the CO-OP and the Frogshole Farm, where alcohol could be bought, did it really need another? He concluded by emphasising that it he was in support of the new Community Pavilion facility, but commented that the Council should be focusing its time and effort on promoting Health and wellbeing at the Pavilion, rather than promoting drinking.

Mr Lake then addressed Members by commenting that he was pleased that Maidenbower had new leisure facility; however the locality was not the appropriate place for a licensed premise, especially as there was a children's playground adjoined to the Pavilion. Mr Lake reminded the Sub Committee that Maidenbower was a highly populated commuter neighbourhood, and residents either worked from home or travelled to and from work, and did not want disruption from further noise in their daily life, especially up to 2300 daily. He finished by raising a query as to whether the residents of Maidenbower had been properly consulted when the majority of residents were not aware of the application.

### **RESOLVED**

That in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the hearing taking place in public.

**60. Application for the Grant of New Premises Licence for Maidenbower Park Community Pavilion**

The Sub Committee considered the relevant representations which were made, considered all the material before it and took into account the guidance issued by the Secretary of State under the Licensing Act 2003 and the Council's own Licensing Policy for Liquor, Late Night Refreshment and Regulated Entertainment Licences 2008-2011.

The Sub Committee noted the concerns of Mr Lake and Mr Greener made through both their written representation and their oral submissions.

The Sub Committee also heard submissions made by the applicant Nigel Sheehan and considered the steps proposed by the applicant to promote the licensing objectives.

The Sub Committee was satisfied that the application had been advertised in accordance with the legislation and that the statutory consultation process had been properly exercised.

**RESOLVED**

1. That the application submitted by the Applicant (Nigel Sheehan) for a new premise licence under the Licensing Act 2003 in respect of the Maidenbower Park Community Pavilion, Crawley, be granted subject to conditions which were consistent with the operating schedule, as laid out below:

- 1.1 Permitted Hours for Licensable Activities:

Plays (a), Films (b), Indoor Sporting Events (c), Live Music (e), Recorded Music (f), Performance of Dance (g), Anything of a Similar Description to that falling within (e), (f) or (g), Provision of Facilities for Making Music (i), Provision of Facilities for Dance (j), Provision of Facilities for Entertainment of a Similar Description to that falling within (i) or (j) and Supply of Alcohol (m)

<u>Permitted Days of Operation</u>	<u>Permitted Hours of Operation</u>
Monday to Friday	0900 – 2300
Saturday	0900 – 2330
Sunday	0900 – 2200

Late Night Refreshment (l)

<u>Permitted Days of Operation</u>	<u>Permitted Hours of Operation</u>
Saturday	2300 – 2330

Hours Premises are Open to the Public (o)

<u>Permitted Days of Operation</u>	<u>Permitted Hours of Operation</u>
Monday to Friday	0900 – 2300
Saturday	0900 – 2330
Sunday	0900 – 2200

2. The Sub Committee decided that inclusion of these conditions in the licence was necessary for the promotion of the licensing objectives:

- 2.1 All doors and windows to be kept closed, except for ingress and egress, when regulated entertainment was in progress.
- 2.2 A comprehensive CCTV system be installed internally and externally, including all entry and exit points, and which enables frontal identification of every person entering in any light condition.

All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping.

Tape recordings shall be made available to authorised bodies on 24 hours notice

A sign advising customers that they are in CCTV shall be positioned in prominent positions. (NB this is to achieve compliance with the Human Rights legislation)

- 2.3 The consumption of alcohol on the rooftop viewing platform to be prohibited. There to be clear signage to be placed at the entry of the rooftop viewing platform setting out that prohibition.

3. That it be recorded that the Sub Committee took into account the following considerations when making its decision:

- The Sub Committee noted that there had not been any relevant representations made by any of the responsible authorities. It was particularly noted that there had been no objection by Sussex Police on the grounds of crime and disorder and that there had been no objection by the Environmental Health Team on the grounds of noise nuisance.
- In light of the premises being a new building there was no evidence before the Sub Committee that granting the licence would lead to an increase in anti-social behaviour or an increase in noise nuisance.
- The Sub Committee were persuaded that increased activity in the area may have the effect of off-setting negative behaviour in the area such as joyriding and anti-social behaviour.

## **61. Re-Admission of the Public**

The Chair declared the meeting re-open for the consideration of business in public session. The Chair asked that it be recorded that whilst they were in closed session, they had sent the Committee Clerk out to request further details as to the CCTV facilities covering the Pavilion. It had been confirmed that the CCTV covered the main and side entrances along with some area inside the premise. It was noted that information had been provided, whilst the Objectors had been present. This was confirmed to the Sub Committee.

The Chair then announced the Sub Committee's decision with regard to the Application for the Grant of a New Premises Licence for Maidenbower Park Community Pavilion to the Applicant Mr Sheehan, the two Objectors Mr Greener and Mr Lake, and to the Officers present. The Legal Clerk summarised the reasons for the decision and the additional conditions to be attached to the licence, and confirmed that

written confirmation of the decision would be sent to all parties in due course.

**62. Closure of Meeting**

With the business of the Sub-Committee concluded, the Chair declared the meeting closed at 9.15pm.

B J Quinn  
**Chair**