



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Committee Room 1, East Pallant House on Monday 28 September 2015 at 9.30 am

**Members Present:** Mr J Connor, Mr J W Elliott and Mr H Potter

**Members not present:**

**In attendance by invitation:**

**Officers present all items:** Mr N Bennett (Litigation Lawyer), Mr P Coleman (Member Services Manager) and Mr L Foord (Licensing Manager)

**1 To elect a Chairman for this Hearing**

**RESOLVED**

that Mr Potter be appointed Chairman of the Sub-Committee.

**2 Declarations of Interests**

No interests were declared by Members present at the meeting.

**3 Application for a new Premises Licence - Stedham Sports Ground/Pavilion, The Street, Stedham**

**Applicant – Stedham Pavilion Association**

Mr David Burton, Chairman of the Management Committee  
Mrs Sue Yates, Secretary

The Chairman formally opened the hearing.

**Mr Foord** explained that the purpose of the hearing was to enable the Council, as local licensing authority, to determine the application for a premises licence at Stedham Sports Pavilion, The Street, Stedham, Midhurst, West Sussex GU29 0NQ.

He referred participants to the Sub-Committee Protocol and Procedure Note appended to the agenda and to the list of valid representations and the map showing their location in relation to the premises. He drew attention to his report which gave brief details of the proposals, including standard opening hours, and to the appended plans of the local area, and of the layout of the premises, the original application, and all relevant representations. He pointed out that an application had

also been made to disapply the mandatory alcohol condition requiring a Designated Premises Supervisor.

Mr Foord stated that the Stedham Pavilion Association had submitted a valid application on 4 August 2015. The statutory notice had been displayed at the premises and a statutory advertisement had been placed in the Midhurst and Petworth Observer.

The only proposed licensable activities inside the Pavilion were the retail sale of alcohol and of late night refreshment on Fridays and Saturdays only. The application also sought a licence for live and recorded music outdoors on Fridays, Saturdays and Sundays, but limited to six occasions a year.

Mr Foord explained that the legislation required the authority to consider the application in the light of the promotion of the four licensing objectives, namely

- The prevention of crime and disorder,
- Public Safety,
- The prevention of public nuisance, and
- The protection of children from harm.

Twenty-one relevant representations had been received in respect of the application. One was from a responsible authority under the Licensing Act 2003, namely the Sussex Police. The applicant had agreed in principle to conditions sought by the Police, which were set out in a letter dated 5 August 2015 from Chief Inspector Burtenshaw (pages 80-81 of the agenda papers). As the Police concerns had been satisfied, they were not attending the hearing based on the conditions being attached to the Premises Licence, if granted.

The 20 other representations were set out in full in the agenda papers and summarised in the report. These included a representation from the Stedham and Iping Parish Council. Mr Foord mentioned that an extraordinary public meeting of the Parish Council had been held which was attended by residents and the applicant. In view of the number and nature of representations, Mr Foord advised that he believed further attempts at mediation would be unsuccessful on this occasion.

Mr Burton and Mrs Yates confirmed on behalf of the applicant that the report was accurate.

The Chairman asked whether late night refreshment would be served indoors on Sunday evenings when live and recorded music was played. Mr Foord replied that the application was for late night refreshment on Friday and Saturday nights only.

The Chairman asked whether the South Downs National Park Authority had been consulted. Mr Foord confirmed that they had been, but had not commented.

**Mr Burton**, on behalf of the applicant, explained that after seven years planning and building, the Association had a beautiful new pavilion, which they had to maintain in

the future. Many pavilions had licences, and the licensable activities applied for would help the Association to balance its accounts.

Mr Elliott asked whether the Association was a private members club or open to anyone.

**Mrs Yates**, on behalf of the applicant, replied that the Pavilion was a community building. She went on to explain that the Association had one of the best sports grounds in Sussex and now had one of the best pavilions. The Association wanted the pavilion to be self-supporting and available to the community. Some of the neighbours who were objecting believed that the Association wanted to re-open something like the former Collins Club. However, this was not the case. The Association wanted to be able to provide a bar that would be open for participants after sports and training events.

Mrs Yates stated that she had undertaken a Personal Licence course, and other members of the Management Committee would be trained if the licence was granted. If the premises licence was granted the community would have full control, instead of operating under Temporary Event Notices. Members of the Management Committee would attend all functions. Vehicles would be parked on the east and south perimeter of the sports ground. An event log would be kept and updated after all events. The pavilion would be let only to the residents of the village, sports associations or those with connections to sports associations.

She believed some of the representations were misleading. The Association was very aware of the neighbours and would keep disturbance to a minimum. She regretted the ill-feeling that had arisen and would offer conditions for the Sub-Committee to consider, which would be implemented.

The Sub-Committee asked how restrictions on letting would be enforced. Mrs Yates replied that she was the booking clerk and would not let the pavilion to persons the Association did not know.

The Sub-Committee asked about access to the pavilion, which was in the south-west corner of the sports ground. Mrs Yates replied that the access was already there, and marked it on a map, together with the location of parking for sports events. Parking for social events would be on the east side. The access track was plastic coating under grass. This could be extended if necessary, but there would probably be only five social events a year, although the first summer had been unusually busy because this was a new building.

The Sub-Committee asked who would control behaviour of hirers of the pavilion. Mrs Yates replied that two committee members would be present at the close of events. If the pavilion was hired out, for example for a wedding reception with outside caterers, a committee member would be in attendance.

The Chairman then invited representors to speak.

**Mr Graham Ault** stated that he had submitted a legal challenge to the advertisement requirements and would deal with that first. He drew attention to the

provisions of Section 17 (5) of the Licensing Act and to the Council's guidance. The applicant was required to prominently display an advertisement on the exterior of the premises in such location that it is likely to be brought to the attention of interested parties. He pointed out that the sports ground was private and not open to residents unless they were members or guests. He submitted photographs showing the notice displayed at the front gate when viewed from the public highway and on the fence abutting the highway. He believed that these notices did not fulfil the requirement to be likely to be brought to the attention of interested parties, and he had spoken to no one who had become aware of the application by these notices.

Furthermore, he did not believe the statutory requirements on the duration of the display had been met. He thought the notice had not been displayed until 12 August and the notice was not in place on 18 or 24 August. In his view the longest period of consecutive days of display was seven, and not the claimed 28 days from 4 August to 1 September.

The Chairman invited the applicants to comment.

Mrs Yates replied that she had personally put up the notice on 4 August. The notice was laminated. It had disappeared one day and was replaced the next day. The notice attached to the fence had disappeared and re-appeared on the parish notice board.

The Chairman asked for advice from its Legal Officer. Mr Bennett stated that whether the publicity requirements were met was a matter of fact to be determined by the Sub-Committee on the evidence. The courts accepted breaches through short periods of absence of notices if these were outside the applicant's control and were not wilful avoidance of the statutory requirement.

The Chairman commented that so many representations had been received that the publicity had clearly been successful. Mr Ault replied that when the neighbours found out about the application through other means they had put notices on the parish notice board and through people's doors.

Mr Foord added that a notice had been placed in the Midhurst and Petworth Observer on 13 August. Although Licensing Officers had not checked the display of the notice at the premises, there was no doubt that local people were aware of the application and a public meeting had taken place to discuss it. He pointed out that there was no statutory obligation for an applicant to consult the local community, but the applicant had attended the public meeting in an effort to address local concerns.

The Chairman stated that the Sub-Committee would consider Mr Ault's representation on the statutory requirements, but would also hear representations about the application itself.

Mr Ault reminded the Sub-Committee that this was a private club, providing limited community benefit. His house backed on to the sports ground and activities there were uncomfortable and unpleasant for his family. People mostly arrived by car. Users of the sports ground were often not from the village; indeed the cricket team was not even from West Sussex. He was originally encouraged by the statement on the application that "live and recorded music will only take place as part of a pre-

booked event". He had thought this might restrict it to five or six a year. However, Mrs Yates had said that a pre-booked event was anything in the diary, so it could be five or six days a week. He offered a photograph of the access route into the site and the location of the building.

Mrs Yates explained that the photograph showed where the former cricket pavilion had been taken down. Once this site had been cleared, the access track would be widened with more plastic. In reply to a question from Mr Connor about future parking on the east side, Mrs Yates explained that only the infirm would park at the pavilion. There had been parking by the bowling green for the two wedding receptions during the summer.

Mr Ault added that he felt that late night events were inappropriate. Part of the access track past his house was rough gravel which caused disturbance when crossed by vehicles after midnight. He pointed out that the hours applied for breached the conditions on the planning permission for the pavilion, which required all events to be finished by 23.00 and the field to be cleared by 23.30. In his view, this showed the untrustworthiness of the applicant. So far, almost every event held had breached the planning condition.

Mr Bennett pointed out that planning matters were dealt with under separate legislation and were not relevant to licensing applications.

Mr Ault reported disorder at events that had taken place during the summer, with drunkenness, swearing and anti-social behaviour. At one party the field had not been clear and quiet until 12.42 am. On one occasion a participant had been so drunk that they had had to be carried to a car. His family members had been intimidated by youths waiting to be picked up outside his gate associated with an event on 30 August. In his opinion the Association had not done much to control behaviour of patrons at their events.

**Mr Martin Drury** said that he had nothing to add and had not applied to speak.

**Mr Colin Field** pointed out that the map on page 17 of the agenda papers did not correctly show the current boundary of his property (Telawi); the fence between Telawi and Linden now extended to the sports ground. He asked whether section J (Supply of Alcohol) of the application implied that the Association could sell alcohol to the public in the same way as a pub. He said that the last thing Stedham needed was a pub.

Mr Foord replied that the application for a premises licence for the retail sale of alcohol was the same process as for a pub.

In answer to a question from the Chairman, Mrs Yates confirmed that the pavilion was for the village and for sporting activities.

Mr Field asked about the reference to sound monitoring in Section M of the application and asked how this would be monitored. Mrs Yates replied that she was not fully aware of what sound proofing measures were incorporated in the building

but it complied with building regulations. Noise would be controlled at social events and all music would stop at 11.00 pm.

Mr Field commented that the thump, thump from music did go on until late. He noted that live and recorded music could take place after 7.00 pm on a Sunday immediately before a bank holiday, and he felt that all Sunday evenings should be quiet. He drew attention to the map showing the location of representors and commented that even though there had been no representation from some properties, there was hardly a dwelling where the residents did not feel the same, even if they did not wish to make a representation, and this included many vulnerable people. Mr Field intimated that 50% of the village were in opposition to the application.

**Mrs Sarah Flint** stated that she was also speaking on behalf of Ms Sophie Smallwood, whose representation appeared at page 76 of the agenda papers. Ms Smallwood would not oppose a licence up to 9.30 pm. However she did not wish for the anxiety of potential trouble after late night events.

Mrs Flint stated that she had volunteered at the public meeting to be the residents' representative on the Stedham Sports Association Committee. She stated that the noise had been unbearable at late night events during the past summer, with drunkenness, shouting and swearing. She believed that the presence of a fence between the sports ground and neighbours' homes misled people into thinking they could not be heard. She referred to the past history of the Collins Club, to her son being beaten up by people from Midhurst attending the Club, and to vandalism and criminal damage. She was concerned that there should be no repetition of such incidents. She thought it unfortunate that there were no sports for children on the sports ground, and hoped that it would be possible to develop sports for children and disabled people and village events such as a village sports day and other fund-raising activities so that the Association did not need to rely on sales of alcohol.

The Sub-Committee adjourned for a five minute break.

**Mr Chris Morgan** stated that he had lived in Stedham for 46 years. He had served on the Parish Council of which he was a past chairman. Having read the letters of objection, he could understand the concerns expressed. He believed that references to the Collins Club, which had ceased to exist five years ago, had no bearing on this application. The Pavilion Association was not proposing a seven day a week drinking pub and had made it clear that there would be limited hours. He lived about 100 yards from the site and could see and hear activities there from the upper floor of his house. There had been two wedding receptions of local people who had married at the village church and a number of children's and birthday parties during the summer. The music had been turned off promptly at 11.00 pm and he had seen the disco lights go off. He felt that it was a huge benefit to have an excellent and versatile facility in the village. A Premises Licence would enable a small profit to be made from the sale of drinks towards the running costs and future maintenance costs of the building. He would support the grant of a licence.

**Mrs Chris Sayer** stated that she had supported the building of the pavilion and the grant of planning permission. However, she believed that the history of the Collins

Club was still relevant and she referred to points 4 and 5 of her letter. Some of the current members of the Association were the same individuals who had operated the Collins Club. She had lived close to the Collins Club, but had not complained because it had been there before she came to live there, but she was anxious that it did not come back in another form. She explained that Mr Ted Liddell who ran the Pro-Tec Security company in Midhurst was a former Police Community Support Officer (PCSO) until his retirement in 1989 and had told her of the anti-social behaviour associated with people from Midhurst who came to the Collins Club after the closure of the Crown Inn in Midhurst. Members of the Committee had contacted Mr Liddell several times to supply a security presence to combat anti-social behaviour, drugs and drunkenness, but had not followed through on these requests. She felt that the restrictions imposed by the planning conditions were good. She stated that the Collins Club had been badly run and had closed because of financial irregularities and not because of disturbance. She felt that big events needed policing and this should be part of the charge for the venue.

In reply to a question from the Chairman, Mr Foord stated that to the best of his recollection there had been no formal enforcement action under the Licensing Act 2003 in respect of the previous Collins Club. He believed that there had been financial irregularity, but he did not have relevant papers at the meeting pertaining to this matter.

**Mr Stephen McGairl** spoke on behalf of the Stedham and Iping Parish Council. He said that the new pavilion had been built with general public support. All aspects had been discussed by the Parish Council and the Parish Council had supported it. It was very much a public village venture. Local people had then been shocked that the premises licence had been applied for with minimal requirements and no public consultation.

There was very little opposition to the grant of a licence, but to the terms proposed. He did not feel that Section M adequately described what was proposed. For example, there was no clear definition of a "pre-booked event", nor any indication of their frequency.

The public meeting organised by the Parish Council had reached a consensus that sale of alcohol after matches and training events up to 9.30 pm, and a limited number of full evening events (say four a year) were acceptable. Mrs Yates had put forward a very helpful proposal for eight events a year, of which three would be outside, with restrictions on the hours of post-match drinking. He thought the village should be allowed time to reach its own compromise. It was important that the terms of the licence should be precisely defined.

In answer to a question from the Sub-Committee about who owned the playing field, Mr McGairl replied that it had been given to the village by the Scrimgeour family at the end of the 19<sup>th</sup> century. The only documentation he had seen was in the 1950s which referred to it as being given to Stedham Sports Ground. It was held by trustees on behalf of the Stedham Sports Association.

**Mr Anthony Douglas** spoke on behalf of himself and his wife. He supported the Stedham Sports Association's use of the pavilion and the application for a premises

licence for matches and limited other events. However, the track record of the Collins Club had been poor. He believed the village would be re-assured had the premises licence application covered the same hours as the planning permission. The Association had said that it had been advised by the Licensing Authority to apply for longer hours. The Licensing Authority had decided not to offer mediation, but he believed that most representors would have settled for licensing hours as agreed for the planning permission.

Mr Foord replied that Mr Douglas was right that the Licensing Authority had not tried mediation. It had become clear that there were substantial differences of opinion in relation to the application and, based on his experience and that of his team, there was little prospect of all 21 representors and the applicant reaching an amicable agreement. If only one objector had not accepted a compromise, the application would still have required determination by the Sub-Committee,

The Chairman invited Mrs Yates to sum up on behalf of the applicant.

Mrs Yates said she stood by her introductory remarks. The Association wanted to offer local and visiting teams and villagers the opportunity to enjoy hospitality. The Association had not initially been aware of how popular the pavilion would become. There had been a succession of events during this summer, which probably would not happen again.

She said that the applicant was prepared to accept a limitation on the number of late night events with music to five a year; this was because there were four sports sections, each of which would want an end-of-season event. The midweek hours would mostly be finished by 9.30 pm, but cricket and stoolball did not finish until 9.00 pm and to allow for this the applicant would accept a closure time of 10.00 pm. The applicant would also accept a reduction in the number of external events from six to three. The full application would be beneficial but it might not be necessary to use all the activities permitted.

The Association had a very strict hiring agreement that required activities to finish by 11.00 pm and clear the ground by 11.30 pm. However, this was a rural area and, on occasions, there could be a delay in the arrival of taxis; they tried to keep people indoors while they were waiting.

Mrs Yates added that the history of the Collins Club was not relevant; that enterprise had not been sustainable.

Mr Foord then asked Mrs Yates to confirm the suggested changes for the purposes of clarity:-

Section J Supply of alcohol: Monday to Thursday reduced from 22.30 to 22.00

Section I Late night refreshment: removed from application

Section M Final bullet: external licensable activities on no more than three days annually, instead of six



Sections E and F music events: five indoors and three outdoors annually

Mr Foord then referred to key elements of the Council's Statement of Licensing Policy. He explained that this gave certainty to the applicants and the local community. Licensed activities made a major contribution to the local economy, but the interests of residents and visitors were recognised. Although the Statement of Licensing Policy set out the Council's general approach, each application was dealt with on its merits, because the Policy could not reflect every premises, every local circumstance, or every control measure. The licensing function was not intended to be a measure to control anti-social behaviour outside the control of the licensee; but licensees were expected to take responsibility for behaviour on and in the immediate vicinity of the premises. The licensing function was not a panacea for all problems, and there was a clear separation between the planning and licensing functions.

The Chairman asked whether any of the representors wished to ask any questions.

Mr Field said that he was very pleased to hear the proposed restrictions. However, he remained concerned about the competence of the applicant to run the licence. It would be possible for a customer to buy a six-pack of drinks shortly before closing time. The licence conditions should be much tighter.

The Chairman stated that, once awarded, licences could be reviewed if necessary, which could result in further conditions, suspension or revocation.

The Sub-Committee adjourned from 11.50 am to 12.48 pm to consider their decision.

### **The Decision of the Sub-Committee**

The Sub-Committee noted the relevant law, including Statutes and related guidance and at all times focussed upon the licensing objectives. The Committee noted the application and supporting paperwork, written representations, the report by officers and all verbal evidence presented at the hearing.

Firstly the Sub-Committee considered in some detail the technical basis of the application as to whether the application was properly advertised. They considered s.17 (5). They considered the representations of Mr Ault, the applicant's representative, and the advice of Mr Foord the Licensing Manager. They noted the newspaper advertisement having been placed at an early stage of the process, that a public meeting was held and the representations of the applicant that when advertising signage was removed they acted promptly on a "same day" basis to replace it. They noted the concerns of Mr Ault as to his recollection that signage was not present at particular points. They considered the physical limitations upon any applicant to maintain advertising signage at a particular point. They also considered the legal advice of the solicitor to the Sub-Committee on s.17(5) of the Act and his commentary on the view of the local appeal Court in respect of brief removal of signage. The Sub-Committee considered that the statutory requirements of s.17 (5) were met by the applicant as a matter of fact relevant to the Sub-Committee and decided to proceed to consider the application which they considered to be properly made for the purposes of the Act.

The Sub-Committee noted the make up of the pavilion committee and the membership details as described by the applicant's representative and as further set out in paragraph 4.7 of the report. The Sub-Committee noted positively the willingness of Mrs Flint to join the pavilion committee and the improvements of engagement this might provide with the wider community. The Sub-Committee also noted the many expressions of support for the pavilion by the persons making representations, and the concerns they raised about ensuring the pavilion is the right resource for the community.

The Sub-Committee noted all the various representations made in person as being thoughtful and useful to their deliberations, providing necessary context both historical and current. The Sub-Committee noted the concerns about a previous club working in the area. Whilst not directly relevant to their decision it continues to cause concern to the community and the Sub-Committee focussed on ensuring that the new application would support the licensing objectives.

The Sub-Committee noted the representations of the Police and their recommendations – as lead agency for public safety – as to conditions. The Sub-Committee thought the Police representation was particularly relevant in the context of concerns of the local community.

The Sub-Committee noted the concerns as to planning raised by Mr Ault amongst others. Whilst planning issues are not relevant to licensing decisions, the Sub-Committee also noted that the South Downs National Park Authority had made no representations in this matter but that they had been consulted.

The Sub-Committee made the following decisions –

- 1) To REFUSE licensable activity I (“Late Night refreshment”)
- 2) To GRANT a license subject to the following conditions

### **Conditions**

- A. Licensable activity J - Supply of Alcohol Monday to Thursdays to be permitted from 12:00 to 22:00.
- B. Licensable activity J - Supply of Alcohol on Sundays to be 12:00 to 22:30 OTHER THAN on any Sunday/s where one of the three licensable activities taking place externally occur at which times supply of alcohol shall be permitted to take place from 12:00 to 23:00
- C. For the avoidance of doubt Supply of Alcohol on Fridays and Saturdays shall be as applied for 12:00 to 23:00
- D. Licensable activities may take place in the external area no more than THREE days annually and only on a date between 1<sup>st</sup> April to 30<sup>th</sup> September (inclusive). A written record of these events will be kept and made available to the Police and Local Authority Licensing Officers for inspection upon request.

E. Sale of Alcohol to private hirers shall only take place under a formal written agreement which shall include a written summary of the hirers responsibilities under the licensing acts. Sales of alcohol may only take place when a member of the management committee is present.

F. Other conditions set out in paragraph M of the application will apply.

**4 Consideration of any late items as follows:**

There were no late items.

The meeting ended at 12.55 pm

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CHAIRMAN

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Date: