

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 18 JULY 2011

Councillors Present: Jeff Beck (Chairman), Manohar Gopal, Geoff Mayes and Andrew Rowles

Also Present: Sarah Clarke (Team Leader - Solicitor) and Brian Leahy (Senior Licensing Officer), Linda Pye (Principal Policy Officer)

PART I

1. **Declarations of Interest**

There were no declarations of interest received.

2. **Schedule of Licensing Applications**

2(1) Application No. 10/01529/LQN St. Bartholomew's School, Andover Road, Newbury RG14 6JP

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 10/01529/LQN in respect of St. Bartholomew's School, Andover Road, Newbury, RG14 6JP.

In accordance with the Council's Constitution, Brian Leahy (Licensing Officer, West Berkshire Council); Maureen Sims, Karen Tyson and Jude Bowers (speaking on behalf of the applicant); and Mike Samuels, Anne Stead, Malcolm Horne, Roger Heath and David Sanders (speaking on behalf of the objectors), addressed the Sub-Committee on this application.

Sarah Clarke, the Council's Solicitor, referred to a letter which had recently been received from Mr. Samuels addressed to the Chairman of the West Berkshire Licensing Authority. The Solicitor confirmed that she was satisfied that all the requirements of the Licensing Act 2003 had been complied with and it was therefore proposed to continue with the hearing for the licensing application in respect of St. Bartholomew's School. Mr. Samuels would receive a full response to his letter in due course.

The Sub-Committee noted that there were a large number of objectors who wished to speak on the application and therefore agreed to the extension of speaking rights for all parties to 15 minutes in accordance with paragraph 7.14.3 of Part 7 of the Council's Constitution.

Mr Leahy in addressing the Sub-Committee raised the following points:

- On 24th May 2011 West Berkshire Council's Licensing Department received an application for a premises licence to be granted under the Licensing Act 2003 from Mr David Smart on behalf of the St. Bartholomew's School, Andover Road, Newbury, RG14 6JP. The initial application was for:
 - Performance of plays (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
 - Films (indoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
 - Indoor Sporting Events (indoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.

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- Boxing or Wrestling entertainments (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Live music (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Recorded music (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Performance of dance (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Anything of a similar description to that falling within (e), (f) or (g) (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Provision of facilities for making music (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Provision of facilities for dancing (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Provision of facilities for entertainment of a similar description to that falling within (i) or (j) (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Late night refreshment (indoors and outdoors) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- Supply of alcohol (on the premises) between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.
- The standard days and timings that the premises would be open were between 0700 and 2200 hours Sunday – Thursday and 0700 and 0000 hours Friday and Saturday.

However, following mediation with Environmental Health (Pollution) a number of changes had been proposed in order to address concerns around public nuisance arising from the times and type of activities proposed. The licence application had therefore been amended following which Environmental Health (Pollution) had withdrawn their objections to the application. The following amendments were proposed:

- Hours on Fridays and Saturdays for all sections were amended to read “between 0700 and 2300 hours”;
- Section A – Plays – Seasonal variations, outside only between April and September;
- Section D – Boxing or wrestling entertainments – removed;
- Section E – Live Music – hours for Friday and Saturday to 2300 and 2200 on Sundays. Outside space would only refer to the hub and was also seasonal from April to September;
- Sections F – K - Outside space would only refer to the hub and was also seasonal from April to September;
- Section L – It was not proposed to provide late night refreshment;

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- Section P part d to read: “St. Bart’s has Licensing Objective guidance notes which will be distributed to hirers and those wishing to host events at the school. The prevention of public nuisance is covered within this. This includes spot checks by the DPS, requesting that all attendees leave quietly, perimeter checks for sound levels by DPS.”

Mr. Leahy confirmed that he had been in contact with a number of the objectors in respect of this application. He stated that the local authority was subject to a number of responsibilities and constraints arising from the licensing legislation and often members of the public had expectations that were not within the parameters of the legislation. Guidance notes on the Licensing Act 2003 had assisted with the formulation of the Council’s Licensing Policy.

Mr. Leahy confirmed that some of the content of the representations received was not valid as it did not fall within objectives of the Licensing Act 2003 which were as follows:

- (1) Prevention of Crime and Disorder;
- (2) Public Safety;
- (3) Prevention of Public Nuisance; and
- (4) Protection of Children from Harm.

However, there were some elements within each representation which were valid and which did fall within the four objectives set out above. A large amount of points raised in the letters from local residents had been emotive and could not be used for the purposes of the Sub-Committee’s decision. However, Mr. Leahy stated that the hearing was an independent process and the Sub-Committee would consider the views of all parties prior to reaching a decision.

Mr. Leahy highlighted an anomaly within the licensing application in respect of Sections M and O. The hours set out in the application were the same whereas the hours the premises were open to the public should be later than the hours stated for the supply of alcohol.

Maureen Sims (Deputy Headteacher, St. Bartholomew’s School) in addressing the Sub-Committee raised the following points:

- Ms. Sims stated that the school had a long and traditional history of operating a house system. The core business of the school was helping pupils to attain educational achievement. Then Parent Association was strong and active within the school and raised money from various functions such as the annual craft fair, quizzes etc. It often raised in excess of £12k for charity every year;
- Ms. Sims informed the Sub-Committee that the school had always been used as a venue for events but it struggled to apply for the various Temporary Event Notices (TENs) throughout the year;
- The school had been subject to a complete redevelopment which included a new bespoke building and had been officially opened this year. There was space in the central hub for the whole school (around 1,800 pupils and staff) to gather and a hall which would seat 400 people;
- The school had always supported community events and offered extended provision for the local community. Community cohesion was a key priority for the school and it had worked hard to keep the local community up to date with the development works which had been undertaken over the last year or so. Ms. Sims stated that it was not proposed to change the work that the school did in any way but rather to enable the community to get the best use out of the building as possible;

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- The sale of alcohol was not the main purpose of the application and would only be used for events such as the Governors' Cheese and Wine party;
- In respect of car parking the school had always sought to address this issue and a further 40 spaces would become available once Phase 2 of the redevelopment was completed;
- The school had previously held a Public Entertainment Licence;
- The application had been amended to address concerns raised by Environmental Health and the timings had been reduced to 2300 hours from midnight on Fridays and Saturdays. The reputation of the school had always been positive and it was hoped that this would continue as it was important to look after the new school facilities;
- Ms. Sims stated that the school would continue to try to reduce noise levels and disturbance to local residents and the building had been designed to take that into account;
- As mentioned previously the supply of alcohol was incidental to the application and Ms. Sims did not envisage groups of young people behaving irresponsibly as a result of the consumption of alcohol and the school had a very strict Child Protection Policy in place;
- The licence would not change the way the school operated in any way but it was merely to make the operation of events easier as it would not have to apply for Temporary Event Notices. Actions had been put in place to monitor any events which took place at the school.

Councillor Jeff Beck queried when the school had been on two sites whether there had been one licence or two. Ms. Sims confirmed that there had been one licence and it was not proposed to do anything differently at all it was just a mechanism which could be used to avoid the school having to apply for twelve different Temporary Event Notices each year.

It was queried when outside organisations hired the school for an event whether the facilities team would be on site. Ms. Sims confirmed that a member of the facilities team would always be on site when the school was open.

Councillor Andrew Rowles noted that the majority of representations made by local residents had been in respect of noise and he asked whether this had been a problem. Ms. Sims responded that these concerns had been as a result of one event which had recently been held and this had increased the awareness of noise in the surrounding area. Councillor Rowles also queried what the arrangements would be for the storage of alcohol. Ms. Sims stated that the only time alcohol would be on the premises would be immediately prior to an event and in those instances it would be stored behind two locked doors.

Councillor Geoff Mayes asked for clarification on whether the Summer seasonal variation for outdoor activities included the month of September and it was confirmed that that was the case. It was also queried whether outdoor events would take place in the hub. Ms. Sims stated that most events would take place in the hall and outdoor events on the school field. However, on occasions, due to inclement weather, events such as the Summer fete might need to be moved indoors at the last moment.

Councillor Jeff Beck raised a number of minor points on the application form itself and noted that the date for the licence to commence had been written as 1st November 2010. It was confirmed that this date would be changed to the date when the application was granted if that was the decision of the Sub-Committee. Councillor Beck asked for

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clarification on the 40 additional car parking spaces. Ms. Sims clarified that Phase 2 of the redevelopment of the school would complete on 29th July 2011 which would provide 40 new car parking spaces and would complement the 137 spaces currently available. This would assist the situation in respect of parking in the area.

Mr. Mike Samuels felt that there had been a fundamental change in the way that the school operated in that the hub was open to the air whereas no change was proposed to the use and function of the buildings within the licensing conditions. The applicant confirmed that the hub would be able to accommodate all pupils and staff in a standing position which was around 1,800.

Mr. Malcolm Horne noted that the applicant had stated that the building would be supervised at all times that it was open but he felt that if drink was being served at a function people would tend to gravitate outside onto the field and that would be when the noise would carry. He queried whether the hub was classified as inside or outside. The applicant advised that the hub was an outside covered space. People would hire specific spaces for events and if the hub was required then it would be allowed for very specific uses only. There would be no outside access to other areas. Events which took place outside would be fetes and sports events etc. If it was wet there might be occasions when the fete, for example, would have to be brought inside.

Mrs. Anne Stead referred to the new sports centre and the fact that such a facility would surely require a licence to sell alcohol. The Council's solicitor advised that that area had not been included within the licence application which was being considered at present. It would also not be a sports centre as such but was a multi-use games area with various pitches and users of the facilities would not expect to purchase alcohol from the school.

Mr. Malcolm Horne queried when an event finished at 2200 hours for example what time would the licence finish. The Council's Licensing Officer had raised this issue in his opening statement and confirmed that it was usual practice for the sale of alcohol to finish 30 minutes or so prior to the end time. This was something that could be addressed through conditioning of the decision notice.

Mr. Sanders stated that the granting of the application would wipe the value off of his property once the school was allowed to sell alcohol. The Council's Solicitor advised that this was an opportunity for the objectors to clarify any points made by the applicant in their statement and not for objectors to make representations themselves.

Mr. Mike Samuels, Mrs. Anne Stead, Mr. Roger Heath, Mr. Malcolm Horne and Mr. Derek Sanders, (objectors), in addressing the Sub-Committee raised the following points:

- Mr. Samuels stated that he was an ex Governor and old boy of the school;
- He felt that the proposed licensing application would mean that the resultant noise and disturbance would adversely affect the enjoyment and use of his garden;
- Mr. Samuels referred to the choral event which had taken place on 25th June 2011. As well as the event itself rehearsals had taken place on 22nd June and the afternoon of the 25th. He had asked the Licensing Officer to provide him with a list of complaints made in respect of noise disturbance for that event. Activities were therefore not limited to the event itself, there was also rehearsal time and clearing up afterwards, all of which were noisy;
- The design of the hub meant that noise was amplified;
- Mr. Samuels believed that this was a commercially motivated application which would be used to address the overrunning of the budget for the new school;
- The proposal was contrary to the Human Rights Act;

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- Mrs. Stead stated that the school could apply for twelve Temporary Event Notices (TENs) in each year which should be sufficient;
- Mrs. Stead had concerns about the sale of alcohol at private functions as she had not seen enough people at the school to be able to monitor such events and problems could arise if young people were in attendance;
- Flats for elderly people bordered onto the school sports area which would cause disturbance;
- Mrs. Stead felt that the school had managed without a licence for a number of years and could not see why it needed to have one at this stage. Having a licence would make it too easy for the school to accept every booking request it received;
- Mr. Horne stated that the Council's Licensing Officer had already answered his query and therefore he would allow others to use the remaining time to make representations;
- Mr. Heath stated that he and his wife lived in Bartlemy Road and had a lovely garden. They liked to invite friends round for the evening and on Summer evenings would sit in the garden to socialise. However, events such as the choral evening would prevent them from enjoying their garden due to the noise;
- The event had been held in the hub which had not been built for such a purpose. There had not been problems prior to the redevelopment of the school but the school had changed now and he felt that the school no longer considered the amenity of local residents;
- Mr. Heath asked if the Sub-Committee were minded to grant the application then consideration should be given to confining music events to the school hall and not the hub;
- Mr. Sanders stated that the choral event had sounded like a busy day at Northcroft Indoor Swimming Pool and had caused disturbance to local residents.

Councillor Andrew Rowles queried whether Mr. Samuels had complained to the school about the noise. Mr. Samuels confirmed that he had and asked the Licensing Officer how many complaints about the noise had been received on the evening of 25th June 2011. Mr. Leahy confirmed that he had the log for that particular evening and confirmed that one complaint had been received from Mr. Samuels but when asked Mr. Samuels had stated that he did not wish to take it further. Mrs. Stead confirmed that as a member of Neighbourhood Watch she had received a number of complaints from local residents but they had not telephoned Environmental Health Officers as it had been a one-off event.

In response to a query Ms. Sims confirmed that the choral event had consisted of a large orchestra and choir but that the sound had not been amplified. This was the first experience the school had had of such a large event. It was questioned whether any measurements of noise had been taken on that evening. Ms. Sims responded that measurements had not been taken as there had been no reason to believe that it was excessive. The Council's Solicitor clarified that there would be no requirement to monitor the level of noise using electrical equipment but it would mean someone walking around the perimeter of the site to ascertain the noise levels. Councillor Jeff Beck confirmed that it was his understanding that this was something that would be monitored by staff. Ms. Sims confirmed that the school was still going through a learning process and that this had been the first event of its kind. As a school St. Barts looked at applications for the use of the school in a moral way and wanted to continue to work with local residents in a positive way.

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Mr. Sanders referred to the fact that 18 complaints by letter had been sent in from neighbours which reflected the level of concern within the community. The Council's Solicitor confirmed that the Licensing Sub-Committee would have regard to all letters received and any representations made prior to making a decision. It was confirmed that no specific arrangements extensions had been requested for Christmas or the New Year within the application.

Mrs. Stead queried whether outside organisations would be able to hire the premises within the school holidays and it was confirmed that this would be the case. However, if the licence was granted there were controls to monitor how the licence was used and operated and if problems were highlighted then consideration would be given to revoking the licence.

In summing up Ms. Sims stated that the school had always worked well with the community and would continue to do so in the future. She had noted the concerns raised by local residents and confirmed that the school would take a view as to what it would be comfortable in allowing the school building to be used for and would only allow events which would enhance the reputation of the school. It would continue to work positively with minority groups and the local community in the future.

(The meeting commenced at 2.00 pm and closed at 3.21 pm)

Jeff Beck (Chairman)

Andrew Rowles

Geoff Mayes