

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 22 MAY 2023
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 22 MAY 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Julien Pritchard.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

1/220523

NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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DECLARATION OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/220523 Apologies were submitted on behalf of Councillor Simon Morrall and Councillor Julien Pritchard was the nominated substitute Member.
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MINUTES

- 4/220523 The Committee noted the Public section of the Minutes of the meeting held on 24 April 2023 at 1000 hours and the Minutes as a whole were confirmed and signed by the Chair.
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LICENSING ACT 2003 PREMISES LICENCE – GRANT – BISHOP VESEY’S GRAMMAR SCHOOL, LICHFIELD ROAD, SUTTON COLDFIELD, B74 2NH

On Behalf of the Applicant

Mr Swindells – Bishop Vesey’s Grammar School

On Behalf of Those Making Representations

No one attended on behalf of those making representations.

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The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Bhapinder Nandhra, Licensing Section, outlined the report.

At this stage the chair invited Mr Swindells to outline his case on behalf of the Applicant and he made the following points: -

- a) The school had held TENs successfully since 2016. These events were including refreshments and alcohol.
- b) Since 2014 the numbers of students has increased especially with the addition of a 6th form. Furthermore, there are 192 students in each year group.
- c) The capacity as a venue to hold single date events is no longer viable.
- d) Therefore, they anticipated holding events over 2-3 days to ensure all students/parents had an opportunity to attend.

- e) Parents will come to watch their children perform and usually have a glass of wine or a beer.
- f) They are conscious of neighbours and residents and try hard to mitigate traffic issues. They communicate with parents and explain that parking is not available on site.
- g) The events will be ticketed and neighbours would be notified of any events.
- h) They would not be an entertainment venue open to the public. This is purely for stakeholders to attend events.
- i) They will continue to work with local residents and write to them on a termly basis as they already do.
- j) They have never had any issues with nuisance behaviour or complaints.
- k) The school has a very good reputation and they would not want to tarnish that.

Members were invited to ask questions and Mr Swindells gave the following responses: -

- a) Residents have Mr Swindells direct contact number.
- b) The site is generally open until 10pm as they have sport activities.
- c) People may make some noise closing car doors and leaving but they work closely with facility users to limit all noise when entering and leaving.
- d) They have had one event which would have had significant noise, a concert, but residents actually participated in that.
- e) They have never had any complaints.
- f) There would use the Quad for licensable activity but only for outside events and it would be very rare.
- g) The licensable area is outlined on the map.

The Chair invited the parties to make a closing submission and Russell George, on behalf of the applicant made the following closing statements: -

- That they were hoping to get a licence and would comply with all licensing objectives.
- Hopefully the licence is granted so they can continue with school events in the same vein as they had previously.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision of the Sub-

Committee was announced in public, then a full written decision was sent to all parties as follows;

5/220523 **RESOLVED:-**

That the application by Bishop Vesey's Grammar School for a premises licence in respect of Bishop Vesey's Grammar School, Lichfield Road, Sutton Coldfield B74 2NH, be granted as requested. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

The applicant school was represented at the meeting by its Finance and Operations Director, who addressed the Sub-Committee. Since 2016, the school had been holding occasional events successfully, using temporary event notices. In recent years, the number of children at the school had increased; there were now 192 in each year group. As a result of this, the school's capacity as a venue for single-date events, such as concerts, was no longer viable. Whilst the school had previously held a Summer concert or Christmas concert on one night, it now had to hold that event over two nights, or occasionally three, in order to allow all parents the opportunity to see their children performing in the concerts.

The purpose of the instant application for a premises licence was therefore in order to continue to offer school events in the style which had previously been held using temporary event notices. The director confirmed that a similar operating style to that seen at the temporary events would apply to all the licensable activities conducted by the school under a premises licence, including the sale of alcohol by retail.

The licence if granted would also cover a number of other events at the school such as soloist concerts, plays and sporting events. During the interval in such events, the school would serve alcohol, which the director said would "generally consist of a glass of wine or a bottle of beer for parents if they wish to buy it, and obviously soft drinks are available as well".

The school was very conscious of its neighbours and local residents, and had tried hard to cooperate in terms of traffic issues. The director described Boswell Road as a single road with parking restrictions. The school tried to mitigate against parking problems as much as possible through communication with parents. All of the school events which were held in the evening were ticketed events, which limited and reduced capacity; moreover, when distributing the tickets, the school made clear that parking was not available on site.

The school was keen to try to alleviate the concerns of local residents, and the director confirmed that it did not see itself as "a regular

entertainment venue". The permissions under the premises licence would only be offered to those involved in or connected with the school, such as parents and alumni, who would be attending events at the school. The school would not be opened up to the general public, and in any event all the evening events would be ticketed.

The school intended to continue to work with the local residents. It wrote to local residents on a termly basis to notify them of events and when they would be happening. The director confirmed that the school would give residents the assurance that it would "continue to manage wherever possible, and mitigate wherever possible, so that there is no inconvenience for local residents".

The director observed that the timings of the events were quite broad, and explained that this was because the school did not know the nights on which it would be holding a particular concert, but it would usually be a weeknight. Occasionally events were held on a Saturday, and very rarely on a Sunday, but the timings which had been put forward in the application covered all eventualities. The majority of events, especially school concerts, would finish by 21:30 hours - especially during the week, as the children would have to be back at school the next day.

The school did have a number of other events that potentially could cause increased traffic. However, these were not licensed events. The director acknowledged that neighbours were sometimes "a bit upset" by these, but this was perhaps simply due to living in close proximity to the school. He repeated that the school did its best to mitigate against problems that might develop, and always communicated with anyone attending those events. Even the Sixth Form open evening was a ticketed event, and the school made it clear by communication that people should not come down Boswell Road in their cars and attempt to park.

The director confirmed that the school had never had any event where there had been any nuisance behaviour. The school was careful to manage all events appropriately; its standing as a successful state Grammar School in Birmingham meant that it had a reputation to uphold, and it wanted to continue to offer safe events which upheld the licensing objectives. The director assured the Sub-Committee that he, as the designated premises supervisor, would ensure that all the licensing objectives were observed for every single event held at the school.

Members asked about the potential for noise nuisance emanating from the school during the events. The director confirmed that residents had been given his direct communication details and could contact him in the event of any problem. The school was generally open during the week until 22:00 hours, as it was open for "lettings" - sporting activities in the sports hall and also on the astroturf. Occasionally when people were getting in and out of cars there would be some noise, and

similarly when cars were driving up the road to and from the lettings. However, the school worked closely with the facility users to make sure that they tried to limit the amount of noise created when leaving and approaching the site.

The director confirmed that the school had never known there to be significant noise as a result of an event, and furthermore observed that “we don't have noisy events”. The Sub-Committee agreed that school concerts, plays and sports were very unlikely to create noise at a level sufficient to create public nuisance and/or disturb local residents. The director added that once when an outdoor concert was held, local residents had themselves participated in the event and listened to the performance. There had been no significant noise issues as a result of any event. Nothing had ever been reported to the director and, in any event, residents had been given a direct communication line to the director.

Members asked about the use of the outdoor spaces for licensable activities. The director confirmed that the areas were detailed on the application and the plans. There were three inside areas - the main school hall, the old school hall (in the older part of the school) and also the dining hall. There was an outside area in the quad which was open onto Litchfield Road.

The quad would not be used as frequently as the other areas, and it would just be for serving outside refreshments as part of an event. The director gave the examples of a concert or a sports presentation dinner, where service of refreshments might take place in the quad, away from the presentation in the main school hall.

The cricket pavilion was also included, to allow the school to serve refreshments at sporting events, but the pavilion and the sports field would probably not be used in the evening. Sporting events would only take place during the day, probably at weekends; the director gave the example of cricket fixtures on a Saturday or Sunday. These would include the alumni cricket team that would play the school's first XI.

Regarding the pavilion, it would be very rare that refreshments would be served there, because those particular events were held once or twice a year. However, as it had been something that the school had previously covered via a temporary event notice, it had also been included in the instant application, to remove the need for temporary event notices entirely.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk of an undermining of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact undermine the licensing objectives.

No representations had been received from any of the responsible authorities. Members carefully considered the representations made by a local resident, but did not find that there was an overwhelming evidential and causal link between the issues raised and the effect on the licensing objectives. The Members found the representations to be rather speculative. There was a comment from the local resident that the school was “not an entertainment venue”, but the style of operation described in the application and by the director (school concerts, plays and sports, which parents would attend to watch their children performing) was not of the kind that one would find at a public entertainment venue.

The Members felt that the resident had not taken into account the school’s history of successful operation under temporary event notices. Other comments relating to parking issues were not relevant to the Sub-Committee. The concerns about the potential for late-night noise had been adequately covered by the director, and furthermore the Members noted that he had given his direct telephone number to those who required it. The Plans submitted with the application had detailed the outside area for licensable activities, and the style of events held at a school were not likely to undermine the promotion of the licensing objectives.

The Members agreed with the remarks of the director in his closing submissions, namely that the school had used temporary event notices successfully and had been doing so since 2016, and would operate under the licence “with the appropriate amount of due diligence” ensure that the events, which would be the same style as had been held previously, would uphold the licensing objectives.

The Sub-Committee determined that the application could safely be granted as requested. The application had been uncontroversial, with no objection from West Midlands Police or any of the other responsible authorities. The speculative nature of the representations made by the local resident were not persuasive, given the successful operation since 2016 under temporary event notices.

The Sub-Committee considered that the school had put forward an operating schedule which addressed the promotion of the licensing objectives. The director was a responsible person who had held temporary events with no issues; he would be the designated premises supervisor. All in all, the application inspired confidence.

Members considered that the school had drafted a satisfactory operating schedule, and therefore concluded that by granting this application the four licensing objectives contained in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and that the operating schedule was suitable. The application was therefore granted as requested.

In reaching this decision, the Sub-Committee has given due

consideration to the City Council's Statement of Licensing Policy, the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application for a premises licence, the written representations received and the submissions made at the hearing by the school via its Finance and Operations Director.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

EXCLUSION OF THE PUBLIC

6/220523

RESOLVED:-

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.
