

LICENSING COMMITTEE

Date: Monday 26th July, 2021
Time: 1.00 pm
Venue: Council Chamber

AGENDA

1. Apologies for Absence
2. Declarations of Interest
To receive any declarations of interest.
3. Minutes - Licensing Committee - 28 June 2021 3 - 6
4. Fire Safety and Safety of Places report - Middlesbrough Sports Village 7 - 8
5. Renewal of General Safety Certificate 2021/2022 - Riverside Football Stadium 9 - 10
6. Village Green Application - Nunthorpe Village Green 11 - 24
7. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Friday 16 July 2021

MEMBERSHIP

Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, S Dean, T Higgins, S Hill, C Hobson, D Jones, L Lewis, D McCabe, M Smiles, J Walker and S Walker

Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Joanne Dixon / Scott Bonner, 01642 729713 / 01642 729708, joanne_dixon@middlesbrough.gov.uk / scott_bonner@middlesbrough.gov.uk

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 28 June 2021.

PRESENT: Councillors R Arundale (Chair), E Polano (Vice-Chair), S Dean, T Higgins, S Hill, C Hobson, D Jones and S Walker

OFFICERS: S Bonner, J Dixon, C Cunningham and T Hodgkinson

APOLOGIES FOR ABSENCE: Councillors A Bell, C Cooke, L Lewis, M Smiles and J Walker

20/6 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

20/7 **MINUTES- LICENSING COMMITTEE - 14 JUNE 2021**

The minutes of the Licensing Committee meeting held on 14 June 2021 were submitted and approved as a correct record.

20/8 **EXCLUSION OF PRESS AND PUBLIC**

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

20/9 **REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 6/21**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 06/21, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, accompanied by a representative, was in attendance at the meeting and verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report in relation to a complaint made by two Council Neighbourhood Safety Officers on 26 April 2021 in relation to the driver's behaviour towards a female on 13 April 2021. The submitted report made reference to the relevant sections of the Council's Policy Guidance on Cautions, Convictions and Complaints.

The report highlighted that the driver was first licensed with Middlesbrough Council in February 2014. This was the driver's first appearance before Members and the Licensing Manager confirmed that there had been no previous complaints made in relation to the driver.

The driver was interviewed by a Licensing Enforcement Officer on 27 April 2021 when he provided an explanation in relation to the incident – full details of which were contained within the submitted report - and confirmed that there were no other outstanding matter of which the Council was unaware.

The complaint related to an incident witnessed by two Council Neighbourhood Safety Officers. The Officers had heard an argument between a female and the taxi driver, when they had approached the driver to try and prevent the situation escalating. Witness statements were provided by the Officers and were attached at Appendices 1 and 2.

Bodycam footage of the incident, taken by the Neighbourhood Safety Officer, was made available and viewed by Members.

The driver confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The driver's representative addressed the Committee in support of the driver case and responded to questions from Members and the Council's legal representative.

The driver also addressed the Committee and responded to questions from Members.

It was confirmed that there were no further questions and driver, his representative and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

ORDERED that Private Hire Vehicle Driver Licence, Ref 06/21 be retained but that the driver be issued with a warning in relation to his conduct.

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage vehicle driver's licence on the grounds that:

- Since the grant of the licence the driver had been convicted of an offence involving dishonesty, indecency or violence;
- Since the grant of the licence the driver had committed an offence or breached the Act or the Town Police Clauses Act 1847;
- For any other reasonable cause.

2. The Committee considered: Section 61 of the Act; Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee - which came into force on 1 November 2019 ("the Policy"); the report and the representations made by the driver and his representative.

3. The review of the licence was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all of the information the Licensing Committee decided to issue the driver with a warning, that will be placed on his record, for the following reasons:-

Reasons

5. The Committee considered the driver's history on the whole in order to assess the driver's suitability to continue to be licensed.

6. The Committee noted the Policy stated that a licensed driver should be courteous, avoid confrontation, not exhibit prejudice, not take the law into their own hands and demonstrate conduct befitting to the trust that is placed in them.

7. It noted that the Policy also referred to offences similar to public order incidents.

8. It noted that a condition of the driver's licence was to comply with the code of conduct, and it was a condition that a driver must always be polite, and behave in a civil and orderly manner at all times. This was also confirmed in the Code of Conduct.

9. The Committee noted that the driver had breached his Licensing Conditions and Code of Conduct on 13 April 2021 in that he shouted and swore in the street and shouted and swore whilst carrying a passenger. The driver was also acting in an aggressive manner. This was shown in the footage provided by neighbourhood safety officers.

10. It considered that the driver had been licensed for seven years and had no previous complaints or issues throughout the length of his licence nor did he have any previous convictions.

11. Although the driver's actions and conduct on 13 April 2021 were wholly inappropriate for a driver licensed in Middlesbrough, the Committee decided to stop short of suspending his licence in view that the driver was extremely remorseful of his actions. The Committee considered his actions on the day were wholly out of character and as a result of false allegations shouted in the street about him and fear of reprisals. The Committee considered that his behaviour on this occasion warranted a warning (to be placed on his record) not to conduct himself in this unbecoming manner in the future.

12. There was no internal or statutory route of appeal against the decision of the Committee to issue a warning to the driver, however, the driver had the option of judicially reviewing the lawfulness of the decision to the high court if grounds had been made out. If the driver decided to challenge the decision by way of judicial review, independent legal advice as to the grounds and time limits that may apply should be sought and the Council would claim its costs in defending the decision.

20/10

ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.

None.

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MIDDLESBROUGH COUNCIL

COMMITTEE REPORT

LICENSING COMMITTEE

26 July 2021

FIRE SAFETY AND SAFETY OF PLACES OF SPORT ACT 1987

MIDDLESBROUGH SPORTS VILLAGE

ISSUE OF REGULATED STAND SAFETY CERTIFICATE FOR ONE YEAR

CHRIS BATES,

HEAD OF HIGHWAYS

PURPOSE OF THE REPORT

- 1 To seek Members approval for the issue of a Regulated Stand Safety Certificate for the grandstand at Middlesbrough Sports Village for one year.

BACKGROUND

- 2 Where there is a covered stand that provides accommodation for 500 or more standing or seated spectators at any non-designated ground the local authority is responsible for issuing and enforcing a regulated stand safety certificate in accordance with the provisions of the Fire Safety and Safety of Places of Sport Act 1987. The Safety Certificate containing such terms and conditions as the Local Authority consider necessary or expedient to secure reasonable safety at the sports ground.
- 3 There have been no significant changes to the grandstand or operating procedures in the past year other than significantly reduced programme of events due to Covid.
4. A bi-annual inspection took place on 5th July 2021 and the stand was found to be satisfactory.

RECOMMENDATIONS

- 5 The permitted number of spectators for the stand is up to 584. As Government Covid guidelines are likely to change prior to the next review of the Safety Certificate a reduced capacity based on Government Covid regulations, when in force, will be agreed in advance of each planned event with the Safety Advisory Group.
- 6 Members are requested to approve the issue of the Regulated Stand Safety Certificate for the forthcoming year with a spectator capacity of 584, with Covid specific capacity reductions agreed in advance with the Safety Advisory Group.

7 The Director of Adult Social Care and Health Integration or his representative be authorised to issue the certificate as above.

AUTHOR

Chris Bates, Head of Highways. Tel 728310

MIDDLESBROUGH COUNCIL

COMMITTEE REPORT

LICENSING COMMITTEE

26 JULY 2021

SAFETY AT SPORTS GROUNDS ACT 1975-RIVERSIDE STADIUM

RENEWAL OF GENERAL SAFETY CERTIFICATE – 2021/2022 FOOTBALL SEASON

CHRIS BATES: HEAD OF SERVICE HIGHWAYS

PURPOSE OF THE REPORT

- 1 To seek Members approval for the re-issue of the General Safety Certificate for the forthcoming football season 2021/2022.

BACKGROUND

- 2 The Safety at Sports Grounds Act 1975 established the principle that a sports ground accommodating more than 10,000 spectators should require a Safety Certificate containing such terms and conditions as the Local Authority consider necessary or expedient to secure reasonable safety at the sports ground.

RECOMMENDATIONS

- 3 The current approved permitted number of spectators for the stadium is up to 33,981.
- 4 Under SG02 Covid guidance the capacity will be dependent on bubble sizes. Under the current regulations the stadium is limited to 25% of capacity. As Government guidelines are likely to change prior to the next review of the Safety Certificate a reduced capacity based on Government Covid regulations, when in force, will be agreed in advance of each match with the Safety Advisory Group.
- 5 Members are requested to approve the re-issue of the General Safety Certificate for the forthcoming season with a spectator capacity of 33,981 with Covid specific capacity reductions agreed in advance with the Safety Advisory Group.
- 6 The Director of Adult Social Care and Health Integration or his representative be authorised to issue the certificate as above.

AUTHOR

Chris Bates,
Tel 728310

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MIDDLESBROUGH COUNCIL

Report of:	Charlotte Benjamin, Director of Legal & Governance Services Executive Member, Environment, Finance and Governance- Councillor Barrie Cooper
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Submitted to:	Licensing Committee – 26 July 2021
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Subject:	Land at The Avenue, Nunthorpe– Village Green Registration
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Summary

Proposed decision(s)
That the Committee accepts & approves the application to voluntarily register the land at The Avenue, Nunthorpe as a Village Green

Report for:	Key decision:	Confidential:	Is the report urgent? ¹
Decision	No	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
Registration as a Village Green will make the most effective use of the land in support of the Councils physical and social regeneration agendas	Registration as Village Green will provide improved facilities that will assist in enhancing the quality of life of the residents living in the area.	Registration as a Village Green will protect a valued asset that will help improve the physical, mental and social wellbeing of the community

Ward(s) affected
Nunthorpe

What is the purpose of this report?

1. To seek approval to the registration of land at The Avenue, Nunthorpe as a Village Green

Why does this report require a Member decision?

2. The approval of the application to register the land is not an officer decision, nor is it covered by an officer scheme of delegation.

Report Background

3. The Avenue site is a Council open space of 2.74 Ha (6.76 acres). It is used for informal recreation, and forms a valuable amenity space serving the Nunthorpe community.
4. The site is protected as primary open space within the Councils Local Plan (2014). In recognition of the importance of the open space to the local community, approval is now sought to voluntarily designate the site as a Village Green.
5. A search of the Title Deeds reveals that there are two significant sewers, which cross the site, and rights exist to maintain these and other drainage. Works required to maintain the drainage would be considered a criminal offence following registration. As such, it is proposed to exclude these parts from the site subject to the registration.
6. In recognition of the importance of the open space to the local community a report seeking approval to make the relevant application for voluntary designation of the site as a Village Green, was presented and approved by Executive at its meeting on 16th March 2021.

What decision is being asked for?

7. That the Committee accepts and approves the application to register the land at The Avenue, Nunthorpe as a Village Green

Why is this being recommended?

8. The land at The Avenue, Nunthorpe is a valued open space resource that benefits the local community. Village Green status recognises its importance and role in the local community and represents the most appropriate course to seek to protect it in perpetuity.

Other potential decisions and why these have not been recommended

9. Two alternative options were considered:
 - i. To retain the current designation and status of the land without Village Green registration. Whilst the land is held by the Council as open space and maintained as such this would not afford the land any long term protection; and
 - ii. That the land be designated as Local Greenspace in the forthcoming Local Plan review. Whilst this offers more protection than the current status of the land, the designation could be removed via a subsequent review of the Local Plan.

Impact(s) of recommended decision(s)

10. The principal impact of the registration as a Village Green will mean that the land is in effect protected in perpetuity from development.

Legal

10. The application to voluntarily register the land as a Village is made in accordance with the provisions of section 15(8) of the Common Land Act 2006. As the registration is being sought voluntarily the freehold of the land remains with the Council.

Financial

11. There are no financial implications for the Council over and above existing obligations for the maintenance of the land.

Policy Framework

12. The decision to voluntarily register the land as Village Green is in accordance with the Councils adopted Local Plan (2014) which protects it as green wedge and primary open space.

Equality and Diversity

13. The decision to voluntarily register the land as Village Green is in accordance with the Councils adopted Local Plan (2014) which protects it as green wedge and primary open space.
14. The registration of the land as a Village Green has been subject to an initial Impact Assessment, which identified that a full IA was not required.

Risk

15. Approval of the application to register the land as Village Green will deliver on the Mayors pledges with regard to the protection of key green spaces.
16. The principal risks should the application be refused are:
 - i. Reputational damage with the community; and
 - ii. The potential pressure for the designation of other site within the Councils ownership to be given the same designation.

Actions to be taken to implement the decision(s)

17. Subject to the grant of Committee approval, the Council will proceed to voluntarily register the Village Green as proposed.

Appendices

Appendix 1: Application Form

Appendix 2: Plan

Background papers

Body	Report title	Date
Executive	Voluntary Registration of The Avenue, Nunthorpe as a Village Green	16 th March 2021

Contact: Angela Cooper, Principal Officer Valuation and Estates.

Email: angela_cooper@middlesbrough.gov.uk

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Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:

Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

Middlesbrough Borough Council

Note 1

Insert name of registration authority.

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

Full postal address:

Telephone number:
(incl. national dialling code) 000~

Fax number:

(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

** Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

** Only complete if the land is already registered as common land.*

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

The Avenue

Location:

The Avenue, Nunthorpe, Middlesbrough

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

The wards, or parts thereof, of Nunthorpe within the Borough of Middlesbrough

Tick here if map attached:

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

NA

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

NA

9. Voluntary registration – declarations of consent from ‘relevant leaseholder’, and of the proprietor of any ‘relevant charge’ over the land

None

10. Supporting documentation

VG1/AM - plan of registration area
VG2/AM - plan of locality served
VG3/AM - Executive approval seeking designation as village green

11. Any other information relating to the application

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

14/07/2021

Signatures:

E. Laughran

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name
(and address if not
given in the
application form).

I, Emma Laughran¹, solemnly and sincerely declare as follows:—

² Delete and adapt
as necessary.

1.² I am ~~(the person (one of the persons) who (has) (have) signed
the foregoing application)~~ ~~((the solicitor to (the applicant) (one of the
applicants))~~.

³ Insert name if
Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in
the case of
voluntary
registration (strike
through if this is not
relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

