

## Planning Committee Report 28 October 2014

<b>App.No:</b> 140895	<b>Decision Due Date:</b> 11 November 2014	<b>Ward:</b> Upperton
<b>Officer:</b> Jane Sabin	<b>Site visit date:</b> 11 October 2014	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 10 October 2014 <b>Neighbour Con Expiry:</b> 10 October 2014 <b>Weekly list Expiry:</b> 17 October 2014 <b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> N/A		
<b>Location:</b> Tennis in the Park, Gildredge Park, The Goffs		
<b>Proposal:</b> Retrospective application under section 73a for the additional use of the pavilion as a cafe (Class A3).		
<b>Applicant:</b> Mr F Mackie		
<b>Recommendation:</b> Approve conditionally		

### Executive Summary:

The application seeks permission to regularise a long standing café operation at the premises, and would enable trade with the general public to continue.

The proposal seeks to mirror the approved licensing hours, which is considered appropriate in this location, and which does not result in a material loss of amenity to the occupiers of the surrounding properties or adversely affect the character of the park in general.

The café is considered to complement the range of uses and activities available to the general public in the area and would maintain the footfall and patronage of the park, which is considered to be of merit.

### Planning Status:

- Public open space (public park)
- Archaeological notification area

### Relevant Planning Policies:

National Planning Policy Framework 2012

1. Building a strong, competitive economy
8. Promoting healthy communities

Core Strategy Local Plan 2013 Policies

B1 Spatial Development Strategy and Distribution  
B2 Creating Sustainable Neighbourhoods  
C4 Old Town Neighbourhood Policy

Eastbourne Borough Plan Saved Policies 2007

LCF8 Small scale sport and recreation facilities  
HO20 Residential amenity

**Site Description:**

This modest, single storey, timber clad building is located in the north east corner of the park, directly facing the tennis courts sited behind the residential properties in Southfields Road and Dittons Road; the rear elevation lies adjacent to the main footpath leading to the vehicular access to The Goffs. The original club house was constructed in 1962.

**Relevant Planning History:**

120749

Single storey extension to the Tennis in the Park pavilion.  
Approved conditionally 23 April 2013

130628

Minor material amendment to permission EB/2013/0015(FP) for a single storey extension to the Tennis in the Park pavilion to permit:

- 1 An increase in the length of the building of 700mm.
- 2 Changes to the design of the porch and its extent.
- 3 A change to the roof covering material.
- 4 Minor changes to the fenestration on the elevation to the car park.

Approved conditionally 22 October 2013

**Proposed development:**

Planning permission is sought retrospectively for the additional use of the tennis pavilion as a café, which falls within use class A3, and to align the operating hours with those of the premises licence.

The supporting statement accompanying the application outlines the growth of the tennis club in terms of patronage, coaching and youth development since 2010. Part of the growth in the club relates to the 'ethos' around the amenities created by a high quality café. This café primarily serves the participants and family members of the club but is also open to the general public.

The submission outlines that since 2010 the café has offered 'coffee shop' services to members of the general public and not only those participating in

sporting activities between the hours of 9am to 7pm seven days per week. These services include:

- Hot and cold drinks
- Light snacks
- Afternoon teas

The submission states that after this time the café provides 'clubhouse' facilities for those participating in the tennis activities up until 10pm, and later for selected special events in line with the approved licence.

The applicant has also confirmed that the clubhouse opens at 7am for tennis use (use of the toilets and shelter from rain), with the café use commencing at 9am. The closing hours are stated as 11.30pm to allow for flexibility for special events operated under a "temporary events notice" in addition to the 10 late nights per year permitted by the premises licence.

### **Consultations:**

Internal:

Estate Manager

Confirms that a variation of the lease would be required if planning permission is granted; it is expected that the tenant must comply with all planning and licensing requirements.

Specialist Advisors (Environmental Health)

Both Specialist Advisers in Licensing and Pollution (Noise) have confirmed that there has been one complaint regarding early morning noise, but it has not required any formal action to be taken.

### **Neighbour Representations:**

At the time of writing this report, in excess of 500 representations had been received; the vast majority are in support of the retention of the café use at the site.

5 objections have been received from local residents and cover the following points:

- If the Club becomes only a café, then it will be simply a park pub
- No other park has cafes with such permissions
- In the future, a change of leaseholder could feasibly mean it becoming a Wetherspoons
- People who live around the park do not deserve to have evenings of noise until 11.30pm for six days a week
- The park is reputed to be an alcohol free zone, with notices telling people they can be prosecuted – it's difficult to see how the two go together
- Noise from the metal shutters being opened at 6.45 am and tables and chairs being dragged along the concrete patio; unacceptably loud noise from a ghetto blaster on the court, bellowing tennis coaches, screaming children in the play area

- Should stay as a tennis club house and not a separate business
- Received a grant to 'do up' the clubhouse which has been spent on extending the clubhouse to hold private functions, nothing to do with the tennis club.

The remaining responses are of support from across the town and the main comments are outlined below: -

- Please do not shut the café
- It is a wonderful facility
- It provides a safe environment for children
- An asset to community
- Promote an interest in healthy lifestyle
- An excellent extension to the tennis club
- Café enhances the park and encourages more families

### **Appraisal:**

#### Principle of development:

There is no objection in principle to businesses wishing to adapt/alter/change their operations to suit new markets or growing demands provided that the changes are to a high standard, respect the established character of the area and do not have an adverse effect on residential amenity, the character of the area and accords with policies in the Core Strategy 2013, and saved policies of the Borough Plan 2007 and the National Planning Policy Framework (2012).

#### Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The business has been operating in the manner described in the application for a significant period of time, and now seeks to formalise the position by way of this application. The majority of the café activity occurs during the daytime. Since the granting of the premises licence in December 2013, there have been four dinner evening ticketed events, plus one wedding reception and one birthday party (the latter two finished by 9pm); a quiz night is planned for October and a Christmas dinner in December. As far as can be ascertained, there have been no complaints regarding the evening events.

It is acknowledged that the location of the café in a corner of the park close to residential properties is an area where background noise is relatively low, and as such the noise and activity associated with the use may be more acutely felt. However the authorised use as a tennis facility with associated accommodation has been there for many years and is operational until 10pm (the use of the floodlights is limited by planning condition to 3pm to 10pm, and until 9.30pm on Sundays). Set against the authorised use of the site, the use of the café in the manner described in the application has not given rise to any material increase to local noise levels, and as such a refusal of the application based on this issue could not be substantiated. The low level of objection is significant in assessing the proposal, although there have been many enquiries seeking clarification; most callers have stated that there is no

problem with the current operations, but concerns have been expressed regarding any extension of hours.

Other matters:

As outlined above, the business has developed since 2010 and has been open to the general public since that date. There is no direct correlation between the number of patrons using the café that are directly linked to the tennis activity and those that are not, however figures provided by the applicant indicate 500 players per week and 1000 visits to the café. It is evident from the high volume of representations received that the café has developed into a well-used community hub.

The high level of community support for this application is a reflection of the quality of the product/services offered by the facility, and this level of support is a material consideration in the determination of the application.

Members will be aware that there is an additional café within Gildredge Park adjacent to the play park and skate/tennis/basketball courts; competition is not a material planning consideration, but notwithstanding this, it is considered that the cafés support different client groups and would not necessarily be in direct competition. It should also be noted that the nearby bowls club also has a licence, and whilst this operates in a different way (generally members only) it does demonstrate that a licence does not necessarily result in conflict with being situated in a public park.

It is acknowledged that there are some issues in Gildredge Park with anti-social behaviour late in the evenings, but this has been the case for many years, and there is no inference that this could in any way be associated with the tennis pavilion nor exacerbated by this application.

The use of the premises as a public house would fall within use class A4, and as such is not covered by this application and would require a specific grant of consent.

**Human Rights/Equalities Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above.

The café has level access threshold and the applicant fully supports disabled/sports.

The human rights considerations have been taken into account fully in balancing the planning issues; furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The application seeks to regularise a long standing business operation at the site and as such there are no objection to the use continuing. It is proposed to reflect the approved licensing hours and there are no objections to this. It is considered that there would be no adverse impact on the amenities of nearby residents or the surrounding area, and the proposal therefore complies with the Council's approved policies.

**Recommendation:** Grant permission, subject to conditions.

**Conditions:**

1. The café (Class A3) use approved by this permission shall not operate outside of the following hours:
  - 09.00hrs to 22.30hrs every day
  - 09.00hrs to 23.30hrs on a Thursday, Friday and Saturday upto a maximum of 10 occasions per calendar year

Reason: In the interests of the amenities of the locality in general and adjoining residential properties in particular.

2. The premises shall operate only as a D2/A3 mixed use, and shall not be used for any other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt and to control the precise use of the building in the interests of the amenities of the adjoining residents.