

Local Government Act 1972



Local Government for Langton Green, Speldhurst, Ashurst and Old Groombridge

Minutes of the Extraordinary Full Council Meeting

Held on Monday 20th November 2023 at 7.30pm in the Pavilion, Langton Green

MEMBERS PRESENT

Councillors Curry (Chair), Lyle (Vice-Chair), Cleaver, Dooley, Ellery, Leach, Norton, Rowe and Turner

OFFICERS PRESENT

C Barrett, Assistant Clerk.

MEMBERS OF THE PUBLIC

There were 5 members of the public present; these were James Bowdidge, David, Emma and Matthew Howden and Dr Nick Trainor.

23/252 To enquire if anyone intends to record the meeting

The assistant clerk recorded the meeting for the accuracy of the minutes. The recording would be deleted once the meeting minutes are signed off at the next Full Council meeting.

23/253 To accept and approve apologies and reasons for absence.

Apologies were received from Cllrs Muress (unavailable) and Tarricone (work-related).

23/254 Disclosure of Interests

Cllr Lyle declared that she was the Speldhurst Parish Council (SPC) appointee on the Board of Trustees for Langton Green Community Sports Association (LGCSA).

23/255 Declarations of Lobbying

Cllr Curry had been lobbied extensively on the Langton Green Pavilion.

23/256 Public Open Session

Cllr Curry began the open session by saying that although he intended to run the meeting in conversation between members of the parish council and members of the public, members of the public should remember to ask his permission before speaking.

Members of the public in attendance spoke and raised the following points:

- James Bowdidge spoke on behalf of Langton Green Village Society (LGVS), to say that he had read the opinion document written by the parish council's legal counsel, and he had concluded that firstly, LGCSA had no legal right to the pavilion. Secondly, there was an area of doubt around the café's Permitted Use. Having seen how the café operated, he believed there to be less doubt than the legal counsel stated, however, he acknowledged that it was a grey area. He added that LGVS was keen to help find a solution that would benefit all, particularly because Emma Howden has spent 7 years building up her business and accumulating responsibilities as an employer. If the parish council did decide to close the café because of advice given by the legal counsel, Emma Howden would be responsible for making these employees redundant. He suggested that the parish council should be duty-bound to help her cover these costs.

Cllr Ellery joined the meeting at 6.37 pm.

- Nick Trainor thanked the parish council for its ongoing attempts to find a solution through constructive dialogue with LGCSA. He had been interested to read in the legal counsel's opinion document that if the pavilion were hired out as a community centre for social activities such as sports, music classes, club meetings, parent and baby drop-in sessions, etc. then an incidental café would be permitted to run as part of those activities. He felt that this presented a possibility that was worth exploring and asked the parish council to remain open to taking a different path to resolve the current issue in the interests of the community.
- Emma Howden said that it would be impossible for her to operate a café under the terms suggested by Langton Green Community Sports Association (LGCSA) in their latest proposal, and she did not believe that any café operator would be able to do so.

23/257 Langton Green Recreation Ground (LGRG)

To consider the parish council's position on the use of licenses regarding new information received.

Cllr Curry gave some background as to the reason for the extraordinary meeting as follows:

- At Full Council on 6th November, the following plan of action was made:
 1. Share the information received from Counsel with all parties involved (LGCSA and the café proprietor).
 2. Take LGCSA up on their offer of working together in an effort to come to a mutually agreeable way forward for the use of the pavilion.
 3. Address what is covered in the agreement by the term 'permitted use' with a view to changing it to include the running of the café.
- The advice given by the parish council's legal counsel had subsequently been shared and Cllrs Curry and Rowe had now met with representatives from LGCSA to discuss a way forward.
- Cllr Curry said that legal counsel had confirmed that the permitted use did not match with the description the parish council had given of a community café, even when a detailed description of the benefits provided to the community was given.
- Cllr Curry said that after reading legal counsel's advice, he had concluded that unless the permitted use was amended, or the operation of the cafe significantly varied, the parish council should not issue a new license for it to reopen in January.
- One of the purposes of the meeting was to discuss a proposal made by LGCSA following their meeting with Cllrs Curry and Rowe, and in response to the advice given by legal counsel. As instructed by Full Council, Cllrs Curry and Rowe had asked LGCSA if they would resolve Permitted Use in isolation from any licenses, processes, etc. LGCSA was not willing to do this, instead, they proposed that Emma Howden hire the pavilion on a rolling one-month basis from the start of 2024 for a 3-month period, based on the Standard Public Hire Agreement on the parish council website. After this time the agreement would be terminated. During the 3-month period, LGCSA and the parish council would work together to review the legal framework and attempt to resolve Permitted Use. LGCSA also proposed that during this time, they and the parish council

would look at the entire café operation and benchmark it against the broader market. All interested parties would be invited to submit proposals for the future operation of the cafe.

Cllr Curry asked councillors for their thoughts on these points and there was much discussion, which is summarised below:

- It was **RESOLVED** that legal counsel's advice on permitted use should be adhered to and that no further licenses or hire agreements would be issued to Emma Howden under the current terms and mode of operation.
- A motion, put forward by the LGCSA regarding its proposal, was WITHDRAWN because Emma Howden made it clear she was not prepared to proceed under these terms. It was noted that there was no commitment in LGCSA's proposal to amend the definition of "Permitted Use" by a simple deed of amendment even if their terms were agreed, merely vague wording to consider it and the parish council was not prepared to suffer further prevarication from LGCSA.
- The parish council did not have the resources to run community and social activities with an incidental café, as described by points 25 and 26 in the advice given by legal counsel, but councillors suggested that this was an undertaking the local community might consider. It was stressed that any such undertaking would need to genuinely meet this description to fit within the Permitted Use definition. James Bowdidge said that LGVS considered Emma Howden's café to be the most important amenity in the village and he thought that they would be interested in investigating this possibility further. It was agreed that if LGVS decided on this course of action, a proposal would be submitted for consideration at the next Full Council on 4th December.
- Some discussion was tabled regarding LGCSA's rights to access the building, where significant differences lie in LGCSA's interpretation of their of their legal position (which has not been shared or substantiated), and the parish council's interpretation of its legal advice. The Chair and Vice Chair warned that use of leverage in this area to deny access to LGCSA could damage the Council's integrity; however, councillors were clear that the parish council had the right to control use of the pavilion on its own terms independent of LGCSA, provided that such use fell within the definition of "Permitted Use".
- The parish council had made considerable expenditure on maintaining the pavilion. It had also made substantial contributions towards energy costs and improvements benefiting café operations thus far. It faces further financial obligations in the future and, whatever the outcome of a potential community hub hiring the space, would need to bring in more revenue or consider more drastic measures to cut costs. It was noted that if Emma Howden decided not to continue operating the cafe, no other café operator could step in as this would still be in breach of the Permitted Use definition and no commercial operation would consider operating under the restrictive conditions LGCSA seek to impose. Additionally, councillors and staff had put in a vast amount of time and resources and, as a council, had been overwhelmed with the strain of doing so. The meeting was reminded that the council represented 4 villages and must also address other priorities such as road safety.

There being nothing further to discuss, the meeting ended at 7.55 pm.