



Licensing Sub-Committee Tuesday, 29th January, 2019

You are invited to attend the next meeting of **Licensing Sub-Committee**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping
on Tuesday, 29th January, 2019
at 10.00 am .**

**Derek Macnab
Acting Chief Executive**

**Democratic Services
Officer**

A Hendry (Direct Line 01992 564246)
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors P Keska (Chairman), J Jennings, S Neville and M Sartin

PLEASE NOTE THE START TIME OF THE MEETING

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**

(Director of Governance) To declare interests in any item on this agenda.

- 3. PROCEDURE FOR THE CONDUCT OF BUSINESS (Pages 3 - 8)**
- 4. FULL SUMMARY REVIEW OF PREMISES LICENCE - CLUB 195, COTTIS LANE, EPPING, ESSEX, CM16 4BL (Pages 9 - 12)**

To consider the attached report. Background papers to follow.

- 5. EXCLUSION OF PUBLIC AND PRESS**

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Background Papers: Article 17 - Access to Information, Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information and in respect of executive reports, the advice of any political advisor.

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

Licensing Committee - Terms of Reference

- (1) The full Committee shall comprise 15 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman.
- (2) For the functions set out in Appendix 1, and the legislation listed in Appendix 2, a Subcommittee consisting of no more than any three Councillors drawn from the members of the full Committee shall be formed. Any such Subcommittee shall include, by rota, one of the six Licensing Subcommittee Chairmen appointed at each Annual Council meeting.
- (3) The Quorum for the Committee is set out in the Rules set out in Part 4 of this Constitution save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.
- (4) The Committee and Subcommittees shall have full authority to hear and determine licensing applications.
- (5) The Committee and Subcommittees shall be further empowered to determine appeals made against the decisions of the Director of Neighbourhoods taken under delegated authority on licensing applications. (See Council delegation schedule for more details)
- (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Appendix 3 (Conduct of Business by Licensing Committee and Subcommittees).
- (7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Appendix 2 to this Article.
- (8) To be responsible for the consideration and approval of Designation Orders under Section 13 of the Criminal Justice and Police Act 2001 (Exercise of Controls over the consumption of alcohol in Public Places).

LICENSING ACT 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY

Matter to be dealt with	Full Committee	Subcommittee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
All policy matters except the formulation of the statement of licensing policy	All cases		

LIST OF STATUTORY POWERS

Those functions pertaining to licensing and registration and permits and consents contained in the following legislation and any regulations, orders, byelaws or other subsidiary legislation made under the above Acts:

Animal Boarding Establishments Act 1963
Breeding & Sale of Dogs (Welfare) Act 1999
Breeding of Dogs Act 1973
Breeding of Dogs Act 1991
Caravan Sites & Control of Development Act 1960
Caravan Sites Act 1968
Dangerous Wild Animals Act 1976
Gambling Act 2005
Guard Dogs Act 1975
House to House Collections Act 1939
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Pet Animals Act 1951
Pet Animals Act 1951 (Amendment) Act 1983
Riding Establishments Acts 1964 & 1970
Scrap Metal Dealers Act 1964
Scrap Metal Dealers Act 2013
The Game Act 1831
Town Police Clauses Act 1847
Town Police Clauses Act 1889
Zoo Licensing Act 1981

PART A – CONDUCT OF BUSINESS BY LICENSING COMMITTEE AND SUBCOMMITTEES

All references to committee in this annex shall be taken to infer a reference to the associated subcommittees.

1. General Conduct

- 1.1 All hearings of the Licensing Committee under the Licensing Act 2003, are to be held in accordance with the Personal Licences, Hearings, Premises Licences and Club Premises Certificates, and Licensing Register Regulations, made under the Licensing Act 2003.
- 1.2 The Council's Constitution shall regulate the conduct of and debate at meetings.
- 1.3 In the case of hearings under the Licensing Act 2003, the Committee shall only consider those matters relevant to the licensing objectives as set out in the Licensing Act 2003 and the statement of licensing policy adopted by the Council.

2. Declarations of Interest

- 2.1 Members of the Committee are subject to the Council's Code of Conduct.

3. Participation in the Hearing

- 3.1 Debate shall be restricted to members of the Licensing Committee. Where a local ward member, not being a member of the Committee, wishes to participate in the hearing, they may do so only with the permission of the Chairman and their participation shall be subject to the same rules as are applied to any other witnesses to the application.
- 3.2 In hearings other than those under the Licensing Act 2003, where a ward member is a member of the Committee, and wishes to object to the application, the member shall give 14 days' notice of their intention, and shall play no part in the decision-making process of the Committee. In hearings under the Licensing Act 2003, those named as responsible authorities and interested parties in the Act may only make representations within the time limits set out in the relevant statutory provisions.
- 3.3 All persons participating in the hearing shall be made aware of the limitations or scope of statements that will be acceptable and, in particular, that statements should be factual or a fair statement on a matter of public interest.
- 3.4 In the case of any hearing pursuant to the summary review procedure under the Violent Crime Reduction Act 2006, the membership of any Subcommittee adjudicating on such a review shall comprise any three members drawn from the Licensing Committee subject to the proviso that no member should serve more than one hearing.

4. Attendance of the Public

- 4.1 The Council's Constitution and relevant statutory provisions relating to the admission or exclusion of the public shall apply to all meetings of the Licensing Committee.

5. Natural Justice

- 5.1 There are two elements to natural justice:

(a) Fairness

- (i) All persons affected by the decision or in the case of matters associated with the Licensing Act 2003, those named as responsible authorities and interested parties in the Act, will be allowed a hearing before a decision is made.
- (ii) Only objectors who can show clearly that they are affected by a decision shall be afforded the right to be heard or, in the case of hearings under the Licensing Act 2003, only those named in the Act as responsible authorities or interested parties.
- (iii) All information shall be made available, where possible in advance, to the applicant and the Committee.
- (iv) All members of the Committee shall be present throughout the hearing of a particular application. Where a member arrives late or leaves during a hearing of a particular application, that member shall play no part in the decision-making process. Where an application is adjourned it shall be continued by the same members only, and no others.
- (v) The Committee shall have discretion in respect of 'late' objections. Such objections shall be clearly marked on the agenda as such and the Committee shall decide on their acceptability. The applicant shall be advised of any late objections. In the case of representations made in relation to the Licensing Act 2003 applications, these shall only be accepted in accordance with the relevant statutory provisions.

(b) Prevention of Bias

- (i) The rules on the declarations of interest shall be firmly applied.
- (ii) If the Committee moves into private session to consider its decision, it shall be accompanied only by its advising officers, none of whom shall have taken a substantive part in the hearing, and shall play no substantive part in the decision-making process.

6. General Procedures for Hearings

- 6.1 The following procedural requirements shall be followed at all times:

- (a) There shall be no recommendation from officers on the agenda;
- (b) The Committee shall be supplied with copies of all relevant documentation and the process and order of procedure shall be as follows:

- (i) The Chairman will open the meeting and introduce persons as appropriate asking applicants and representatives to identify themselves.
- (ii) The Chairman will outline the procedure to be followed.
- (iii) The Lead Officer will outline the matter in hand.
- (iv) The applicant or representative will present his/her case, with or without witnesses, and be questioned by members or any objectors/persons making representations present.
- (v) Any objectors/persons making representations may then present their objections/representation, with or without witnesses, and be questioned by members or the applicant/s or their representative.
- (vi) The objectors/persons making representations may make a final statement (without introducing new issues).
- (vii) Finally, the applicant has the right to make a final statement (without introducing new issues).
- (viii) All evidence/disclosures are to be made in the presence of all persons, unless someone voluntarily excuses themselves from the proceedings.
- (ix) Committee members shall restrict themselves to questions and not discussion or comment.
- (x) The applicant, objectors/persons making representations shall be allowed to ask officers questions of a technical/factual nature at any time during the proceedings.
- (xi) An adjournment should be granted where to do otherwise would deny a fair hearing.
- (xii) The Committee may resolve to decide upon the application in private session, however, if it becomes necessary to recall anyone for additional information, everyone shall be invited to return to the Hearing.
- (xiii) The decision shall be given in the presence of all parties that wish to be present and confirmed in writing as soon as possible thereafter. If legal advice is given to members this advice will be repeated in summary form.

Report to the Licensing Sub-Committee



**Epping Forest
District Council**

Date of meeting:

**Tuesday 29th January
2019**

**Subject: Full Summary Review of Premises Licence – Club 195, Cottis
Lane, Epping, Essex, CM16 4BL**

Responsible Officer: Debbie Houghton (01992 564336) – Licensing Officer

Democratic Services Officer: Adrian Hendry (01992-564246)

Decision Required:

To determine an application for an Expedited Summary Review of the Premises Licence and to consider relevant representations as a result of the review application.

Report:

1. An application for an Expedited Summary Review of a Premises Licence under Section 53A of the Licensing Act 2003 was received from Essex Police in respect of a Premises Licence issued to Club 195 Cottis Lane, Epping, Essex, CM16 4BL
2. On 4th January 2019 in accordance with Section 53B of the Licensing Act 2003, the Licensing Authority after reading Essex Police's review application made the decision to implement the following interim step to take effect immediately:
 - (a) To suspend the Premises Licence until the Review hearing.as there was a danger of further serious crime and serious disorder.
3. A copy of the application for a summary review and the certificate under Section 53A(1)(b) was served on the holder of the Premises Licence and all responsible authorities. The certificate stated that in the opinion of Superintendent Craig Saunders the Premises were associated with both serious crime and disorder.
4. The application was advertised in accordance with Section 53(A)(3)(c) of the Licensing Act 2003 and Regulation 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, thereby inviting representations to be made by responsible authorities and interested parties. Any representations were received by the Licensing Authority by Friday 18th January 2019.
5. A copy of the application for review is attached with this report. Also attached with the report is a location map showing the premises and surrounding area.

Current Premises Licence

6. A copy of the current Premises Licence which includes conditions is attached with this report.

Grounds for Review

7. In support of the application Essex Police have supplied a list of incidents, and these are attached with the application with this report. Essex Police have also provided the authority a DVD which contains moving images of the incidents that took place. A copy of the DVD will be made available on the day of the hearing.

Relevant Representations

- 8.. The Licensing Authority has received representations from The Mayor of Epping Town Council, and one objection from a local resident relating to the licensing objectives. These are attached with the report.

9. The Premises Licence Holder, the applicant for the review and all interested parties have been invited to attend this hearing and will be given the opportunity to address Members.

Legal Considerations

10. Members are asked to make their decision based on consideration of the representations received with a view to promoting the four licensing objectives which are:

- Prevention of crime and disorder.
- Public safety.
- Prevention of public nuisance.
- Protection of children from harm.

Options

11. In the case of a review of a Premises Licence the Licensing Sub-Committee has the following options:

- (a) To modify the Conditions of the Premises Licence and/or attach new conditions;
- (b) To exclude from the Licence a licensable activity;
- (c) To remove the Designated Premises Supervisor;
- (d) To suspend the Licence for a period not exceeding 3 months;
- (e) To revoke the Licence;
- (f) To leave the Licence in its existing state.

Background Papers:

- Application for Review and bundle. – Attached with the report
- Map of local Area – Attached with the report
- Premises Licence – Attached with the report
- Relevant Representations received – Attached with the report
- CCTV DVD from Essex Police to be shown on the day of the hearing.

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