

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

<b>Committee:</b>	Licensing Sub Committee	<b>Date:</b>	Thursday, 17 November 2022
<b>Place:</b>	Virtual Meeting on Zoom	<b>Time:</b>	10.00 - 10.50 am
<b>Members Present:</b>	Councillors		
<b>Members Present (Virtually):</b>	Councillors J M Whitehouse (Chairman), A Lion and L Mead		
<b>Other Councillors:</b>	Councillors		
<b>Other Councillors (Virtual):</b>	Councillors		
<b>Apologies:</b>	D Sunger		
<b>Officers Present:</b>			
<b>Officers Present (Virtually):</b>	A Hendry (Democratic Services Officer), D Bastick (Licensing Compliance Officer), D King (Licensing Manager), R Ferreira (Assistant Solicitor), C Smith (Environmental Enforcement Officer), T Latham (Environmental Enforcement Officer) and L Ridley (Senior Business Support Officer)		

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### **43. Declarations of Interest**

There were no declarations of interest made pursuant to the Council's Members' Code of Conduct.

### **44. Procedure for the Conduct of Business**

The Sub-Committee noted the agreed procedure for the conduct of business and the Terms of Reference.

### **45. Temporary Event - The Pink Zebra, 6 Foxes Parade, Sewardstone Road, Waltham Abbey, EN9 1PH**

The three Councillors that presided over this application were Councillors J M Whitehouse (Chairman), A Lion and L Mead.

The Chairman welcomed James Webster, the Applicant. Also, in attendance was C Smith and T Latham, Environment & Enforcement Officers. The Chairman introduced the Members and officers present and outlined the procedure that would be followed for the determination of the application.

**(a) Application before the Sub-Committee**

The Licensing Compliance Officer, D Bastick, informed the Sub-Committee that an application had been made by James Webster for a Temporary Event Notice for the following premises: The Pink Zebra, 6 Foxes Parade, Sewardstone Road, Waltham Abbey EN9 1PH. The event is for a New Year's Eve Party to take place on 31st December 2022 to 1st January 2023 between 20:00 to 03:00 for a maximum of 200 people. The licensable activities applied for are as follows:

- The sale by retail of alcohol,
- The provision of regulated entertainment and
- The provision of late-night refreshment.

The application was received on the 9th of November 2022.

The authority has received an objection notice from Environmental Enforcement/Community Resilience Team. They stated that the premises currently had a Noise Abatement Notice in force that was served in May 2022. In addition, they had a condition on their premises licence which states all music is to go through a noise limiter. On 25 September 2022 the Duty Noise Officer visited out of hours in response to a complaint received and loud music was witnessed past 01:00am that was a breach of the notice.

During a recorded phone conversation with James Webster on 6th October 2022 he advised that on the night in question they had by-passed the noise limiter as they didn't think there would be any issues with this – this was a clear breach of licensing conditions.

On 15th October 2022 again the duty noise officer attended in response to a complaint and witnessed loud music deemed to be a further breach of the notice and also people noise. The officer remained in the area until 02:00am and the noise continued.

**(b) Presentation of the Application**

Mr Webster said he was asking for the TEN for New Years eve. Everyone would be out by 3.30am and explained that they had engaged doormen to keep order. He explained that he always tried to engage with his neighbours if they expressed any concerns about the noise and expressed his regret for any of the recent problems as outlined by the objection received.

**(c) Questions for the Applicant from the Objector**

Mr Smith asked where the customers would stay when waiting for their taxis. Mr Webster replied that they would wait outside and some inside, or around the back of the premises.

**(d) Questions for the Applicant from the Sub-Committee**

The Sub-committee asked what was the maximum number people that the premises could accommodate. They were told that it would be about a 200 to 220 capacity. They then asked how he would manage the dispersal of his customers. Mr Webster

said that his doormen would deal with this. They then asked him to clarify the noise problem that he had. He said that they had a noise limiter, but this had been bypassed, but he did not know how this had happened. They now had a new limiter at the club.

The Sub-committee asked about the second breach. Mr Webster said that this was caused by noise from the outside, he did not believe that they had breached the limit inside the premises.

Asked what taxi company he would be using for his customers he said that he was working on this at present.

Customers would start arriving from 8pm and there would be 3 doormen in place. In response to another question Mr Webster said that the club had flats above them. They would always respond to any complaints made and turn down the music if necessary. They were not contesting the noise abatement notice, although he did ask a colleague to do so.

The new limiter had now been professionally set up.

**(e) Presentation from the Objector**

Mr Smith noted that they were still investigating the problems that officers had found when investigating. The noise abatement notice had been breached in September and October.

He also had concerns about the 200 or so patrons leaving the premises at 3am at the same time.

**(f) Question for the Objector from the Applicants**

Mr Webster queried if he could stagger the times of the people leaving the premises. Mr Smith said that staggering would still cause a disturbance.

**(g) Questions for the objector from the Licensing Sub-Committee**

The Sub-Committee asked about the evidence for noise heard outside the premises. They were told that they had received complaints about people noise and music from the front of the building. They observed that the doormen did not attempt to calm the customers down. The sub-committee noted that the premises was an ordinary shop and not an ideal venue.

The sub-committee asked about the requirements of the noise abatement notice. They were told that the premises was required to keep the noise to a reasonable level.

**(h) Closing Statement from the Applicant**

The applicant had nothing more to add.

(i) **Closing statement from the Objector**

The objector had nothing more to add.

(j) **Consideration of the Application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

During our deliberations in private session our advisory officers gave us the following advice:

- Must give reasons for the Licensing Sub Committee decision.
- That each case must be decided on its own merits.
- If granted the only conditions that could be imposed would be those on the existing Premises Licence.

The Sub-Committee considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

**RESOLVED:**

The Sub-Committee had considered the application for a Temporary Event Notice to be granted for the period sought in the application for THE PINK ZEBRA, 6 FOXES PARADE, WALTHAM ABBEY, ESSEX, EN9 1PH.

They had taken into account the four licensing objectives, the relevant written and oral representations, the Council's Licensing Policy, the Secretary of State's Guidance and the conditions attached to the existing Premises Licence mentioned on pages 21 to 28 of the agenda in particular those relating to the prevention of public nuisance.

The Sub-Committee's decision was:

That the application for a Temporary Event Notice for The Pink Zebra, 6 Foxes Parade, Sewardstone Road, Waltham Abbey, Essex, EN9 1PH **be refused** and that a counter notice be served in-order to promote the licensing objectives in particular the prevention of public nuisance.

The reasons were as follows:

If granted the licensing objective for the prevention of public nuisance would be undermined.

This Sub-Committee had received evidence that there was a Noise Abatement Notice in existence relating to the Premises and which Council officers had recently witnessed being breached on 2 occasions in spite of a written warning after the first breach. These breaches have also been breaches of the Premises Licence.

If the event as proposed goes ahead, the Council's Environmental Enforcement Officers were not satisfied that the Premises can trade for the additional time without causing a nuisance to residents. In addition, they would have concern with the dispersal of up to 200 people after 03:00am which could lead to residents being disturbed long after the Premises has closed.

They shared their concerns and did not feel that there could be any certainty that the Premises would conduct the event in accordance with the existing Premises Licence conditions and in accordance with the Noise Abatement Notice. They felt that the avoidance of public nuisance to neighbouring residential properties was not going to be possible to mitigate.

**CHAIRMAN**