

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 6 September 2007

Place: Council Chamber, Civic Offices, **Time:** 10.15 am - 1.15 pm
High Street, Epping

Members Present: R Morgan (Chairman), R D'Souza, P House and Mrs M McEwen

Other Councillors: None.

Apologies: None.

Officers Present: S Harcher (Environmental Services Principal Team Leader), G Oakley (Managing Legal Executive), G Cohen (Legal Work Experience Student), G J Woodhall (Democratic Services Officer), D Baker (Admin Supervisor), K Tuckey (Environmental Services), A Wood (Technical Officer) and M Witham (Licensing Enforcement Officer)

24. ELECTION OF CHAIRMAN

RESOLVED:

That, in accordance with the terms of reference for the Licensing Committee, Councillor R Morgan be elected Chairman for the duration of the Sub-Committee meeting.

25. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor P House declared a personal interest in item (8) of the agenda (Application to vary a Premises Licence – Nu Bar, Loughton) by virtue of having made a written representation regarding the application as a local resident. The Councillor had determined that his interest was prejudicial and would step down from the Sub-Committee for the consideration of the application and voting thereon.

(b) Pursuant to the Council's Code of Member Conduct, Councillors R Morgan, R D'Souza and Mrs M McEwen declared a personal interest in item (8) of the agenda (Application to vary a Premises Licence – Nu Bar) by virtue of being acquainted with two of the correspondents who had made representations regarding the application. The Councillors had determined that their interest was not prejudicial and would remain on the Sub-Committee for the consideration of the application and voting thereon.

26. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business, and the terms of reference.

27. EXCLUSION OF PUBLIC AND PRESS

That the public and press be excluded from the meeting for the items of business set out below on the grounds that they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
6	Hackney Carriage Driver's Licence - Mr S Sadler	1
7	Hackney Carriage Driver's Licence - Mr P Lodge	1

28. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR S SADLER

The Sub-Committee considered an application by Mr S Sadler for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Morgan, D'Souza and House. Members noted that officers did not have delegated powers to grant this application and, as a result, the application had to be considered by the Sub-Committee. The Chairman welcomed the applicant, introduced the members and officers present, and explained the procedure that would be followed for the determination of the application. The Environmental Services Principal Team Leader informed the Sub-Committee of the circumstances under which the licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, before answering a number of questions from members of the Sub-Committee. The applicant then made a short closing statement to the Sub-Committee before the Chairman requested that the applicant leave the Chamber whilst the Sub-Committee debated his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision.

RESOLVED:

That a Hackney Carriage Driver's Licence be granted to Mr S Sadler, subject to the Council's standard terms and conditions.

29. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE - MR P LODGE

The Sub-Committee considered an application by Mr P Lodge for a Hackney Carriage Driver's Licence. The three Councillors that presided over this item were Councillors Morgan, D'Souza and House. Members noted that officers did not have delegated powers to grant this application and, as a result, the application had to be considered by the Sub-Committee. The Chairman welcomed the applicant, and introduced the members and officers present. The Environmental Services Principal Team Leader informed the Sub-Committee of the circumstances under which the licence could not be issued under delegated authority.

The applicant made a short statement to the Sub-Committee in support of his application, before answering a number of questions from members of the Sub-Committee. The applicant then made a short closing statement to the Sub-Committee before the Chairman requested that the applicant leave the Chamber whilst the Sub-Committee debated his application in private. The Chairman invited the applicant back into the Chamber and informed him of the Sub-Committee's decision.

RESOLVED:

That a Hackney Carriage Driver's Licence be granted to Mr P Lodge, subject to the Council's standard terms and conditions.

30. LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE - NU BAR, LOUGHTON

The three Councillors that presided over this item were Councillors Morgan, D'Souza and Mrs McEwen. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were: Mr S Look, Area Manager for Greene King; Mr A Brooks, Designated Premises Supervisor; Mr C Davis, Legal Representative for the applicant; and Miss V Flowers, Legal Assistant to Mr C Davis. In attendance as objectors to the application were Mr E and Mrs J Clark, and Councillor P House, all of whom were resident in the vicinity of the premises and had made representations during the consultation period. The Chairman then introduced the members and officers present, and outlined the procedure that would be followed for the determination of the application.

(a) The Application before the Sub-Committee

The Environmental Services Principal Team Leader informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of the Nu Bar in Loughton, along with representations from interested parties. The application had requested permission to vary the existing licence such that:

- (i) alcohol could be served until midnight Sunday to Thursday, and 2.00am on Friday and Saturday;
- (ii) the premises could remain open to the public until 30 minutes after the end of sale of alcohol; and
- (iii) live and recorded music, and other associated activities such as dancing and karaoke, could be provided whilst the sale of alcohol was permitted.

(b) Presentation of the Applicant's Case

Mr Brooks informed the Sub-Committee that he had been appointed as the Manager and Designated Premises Supervisor 18 months ago, when he had signed a 20-year lease with Greene King. Mr Brooks had been a city trader but had made a significant financial investment in the premises when he acquired them, and the involvement of his mother made the premises a family-run business. Mr Brooks was aware that the premises had had an unsavoury reputation in the past, but was vastly different now. During the day, it was more of a café style business until 7.00pm, whereupon it transformed into a modern, fashionable nightspot. The clientele were generally affluent, of a varied age group, and with 65% of the customers typically being female. The premises deliberately charged premium prices to deter troublemakers, and the

minimum age limit for entry to the premises was 21. Mr Brooks lived on the site above the premises.

Mr Brooks stated that the premises were situated on the corner of Loughton High Road, approximately 300m from Loughton Underground station. In addition to the nearby underground station, there was a bus stop close by in Station Road and a taxi rank in the High Road. The premises did have a car park but this had only five spaces and customers were encouraged to use the local car parks rather than park in nearby resident streets. The premises had a dispersal policy in place. There was always three or four door staff on duty at weekends from 7.30pm until the premises closed, all of whom were SIA trained, who would guide customers out and away from the premises at closing time, in addition to the notices within the premises requesting customers to respect the local residents and leave the area quietly. As a result, the applicant felt that patrons did not loiter within the vicinity of the premises after closing and cause a nuisance to the local residents. It was highlighted that the High Road contained a number of bars and restaurants, whose customers would often walk past the premises and cause local residents to believe that they had come from the Nu Bar.

Mr Brooks felt that the extra hour that had been requested for each evening would lead to a more staggered dispersal of customers and result in less disturbance to nearby residents. A petition in support of the application had been handed in, along with a number of representations from local residents in support of the application. The premises had a good working relationship with the local police, who had not objected to the application, and had recently worked with the Council's Environmental Health officers to resolve a noise pollution problem caused by music from the premises rather than the customers. The applicant maintained that his investment had vastly improved the premises, both in appearance and management, which had also had a subsequent beneficial effect upon the area as well.

(c) Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Brooks stated that he would be happy to accept a condition that there would be a minimum of four door staff on duty during the evening at weekends. The applicant confirmed that the premises were seeking an extra hour for the sale of alcohol during the week as Sundays and Thursdays were particularly popular nights and customers wanted to have a quiet drink until midnight. The capacity of the premises was approximately 180 people, and the applicant estimated that approximately 100 customers would be in attendance on Sunday and Thursday nights. Many of the customers lived within a five-mile radius of the premises. The Sub-Committee were advised that the premises were shut on Mondays.

Mr Brooks explained that, since 1 July 2007, customers could only smoke in the car park to the rear of the premises but were not permitted to take their drinks outside. Customers were not permitted to stand on the street outside the premises smoking, and customers were not permitted to smoke in the car park area after 12.30am at weekends. There were no other Personal Licence holders employed at the Premises aside from the applicant but, in addition to the four door staff, the premises also employed six bar staff and three glass collectors on busy nights. Currently, there was no CCTV installed at the premises, but the Police were rarely called to deal with any incidents. There was no entry permitted to the premises after 12.00am at weekends.

(d) Questions for the Applicant from the Objectors

In response to questions from the objectors, Mr Brooks explained that the current noise limits for the premises had been agreed with Environmental Health officers in 2006. The Environmental Health officers had not technically tested the noise limiter installed, however the applicant had tested the noise levels emanating from the premises with the front door open. The windows at the premises were open during the day, however they were closed at 7.00pm in the evening. Groups of customers were not permitted to loiter outside the premises, and only a maximum of 15 customers were allowed out into the car park to smoke at any one time. The applicant explained that the capacity of the premises had been limited to 180 for health and safety reasons. No bottles or glasses were permitted off the premises; the applicant contended that glasses and bottles from other establishments in the vicinity had been found nearby but that the premises could not control the behaviour of customers from other outlets.

(e) Questions for the Applicant from the Officers

There were no questions for the applicant from the officers present at the meeting.

(f) Presentation of the Officer's Case

The responsible authority for Planning had made a representation objecting to the extended hours of operation requested by the application. Whilst it was accepted that the premises were located in a high street location, there were residential streets nearby, with the nearest properties being 60 metres from the premises. It was felt that customers of the premises parked in these nearby residential streets, and caused a public nuisance to sleeping residents through noise from vehicles and customers in the early hours of the morning, particularly at weekends. It was felt that the current hours were satisfactory and that any extension would cause more disturbance to residents. The premises currently enjoyed the same opening hours as other establishments in the area at weekends, and that if this application were granted then other premises in the vicinity would apply for later opening hours. Consequently, whilst an additional 30 minutes during the week would not be objected to, it was felt that an additional hour at weekends would cause concern to local residents.

(g) Presentation of the Objector's Case

Mrs Clark expanded upon her written representation, dated 19 August 2007, before the Sub-Committee and asked that the following points be considered in relation to the application: excessive noise levels and associated disturbance to residents from the premises and its customers late at night; congestion from cars parked in nearby residential streets by customers of the premises; intimidation from customers to local residents; and bottles and glasses from the premises left in the vicinity. Mrs Clark stated that she would like to see parking restrictions implemented in the vicinity of the premises to ease the congestion caused by the cars parked in nearby residential streets, and that a restriction of the premises' hours would help to control the night time noise made by customers and cars.

Councillor House, the ward member for Loughton Forest and a resident of Connaught Avenue, directed the Sub-Committee's attention to his written representation dated 7 August 2007. In addition, Councillor House felt that the changing character of the premises had affected the peaceful existence of local residents. It was difficult to sleep before midnight due to the bass tones of the music emanating from the premises, and then residents would suffer further disturbance in the early hours of the morning from customers leaving the premises. The Sub-

Committee were requested to refuse the application, for the sake of the peace and quiet of local residents.

(h) Questions for the Objectors from the Sub-Committee

In response to questions from the Sub-Committee, Mrs Clark confirmed that she lived further away from the premises than Councillor House. The Licensing Officer also confirmed that the nearby Minx public house was currently permitted to stay open later than the Nu Bar during the week but not at weekends. The Environmental Services Principal Team Leader confirmed that the Environmental Health officers had been satisfied with the cooperation of the applicant in controlling noise levels from the premises, and had no objections to the application to vary the premises' licence. There had also been no representations from the Police in respect of the application.

(i) Questions for the Objectors from the Applicant

In response to questions from the applicant, the Planning Administration Supervisor stated that he had paid two visits to the vicinity of the premises in order to prepare for the meeting, the previous Friday evening/Saturday morning between midnight and 1.00am and two weeks previously. The front door of the premises had been open at 12.30am and music could be clearly heard at the nearest residential properties, 60 metres away. The Minx public house was a further 200 metres away from the Nu Bar. However, it was accepted that Planning Services had not directly received any complaints from residents, and the Planning Administration Supervisor conceded that he had not entered the premises. It was not accepted that the complaints were generic and not directly related to the premises, as all establishments claimed that they had no control over the behaviour of their customers when they left the premises. It was highlighted that the Environmental Health Officers would have concentrated their efforts on the music emanating from the premises rather than the noise generated by customers when leaving the premises.

(j) Objector's Closing Statement

In conclusion, Councillor P House contended that there was excessive noise emanating from the premises, as evidenced by the 55 representations received from local residents objecting to the application, and requested that the application to vary the premises' licence be refused. Mrs Clark added that noise from the premises could be heard a considerable distance along Ollards Grove and disturbed residents' peace and quiet.

(k) Applicant's Closing Statement

On behalf of the applicant, Mr Davis stated that whilst all the representations were important and valid, consideration should be given as to whether they were based upon the premises or other outlets in the vicinity. Thirty-three of the representations opposing the application were a standard letter, with a further six letters almost identical, and the Sub-Committee were asked to attribute less importance to this correspondence. A petition in support of the application had also been presented, however whilst the signatories had not been coerced in any way, it was felt that the petition should be treated in the same manner as the standard letters received. The Sub-Committee were asked to attribute more importance to the individual representations in support of the application that had been received.

It was accepted that there might be some public nuisance to residents in the area, but it was not necessarily the premises that was at fault, and the applicant had taken all the necessary steps to prevent problems. The Sub-Committee were reminded that

further conditions could be added to the application, such as the installation of CCTV. It was highlighted that the responsible authority for Environmental Health had not made any representations opposing the application, indeed Environmental Health officers had cooperated with the installation of the noise limiter at the premises, and that the lack of a Police representation to the application indicated that there were no crime and disorder issues at the premises. In conclusion, Mr Davis stated that the application had merit and the Sub-Committee were requested to consider it favourably.

(I) Consideration of the Application by the Sub-Committee

The Sub-Committee retired to consider the application in private session. The Sub-Committee received advice from the officers present concerning the Licensing Objectives, and the need to demonstrate a link between the premises and the problems being experienced in the neighbourhood. The Sub-Committee noted in particular that there had been no representations from the Police regarding the application. The Sub-Committee considered the application in relation to the objectives set out in the Licensing Act 2003, and accepted that no indisputable evidence had been produced to link the patrons of the premises to the public nuisance problems in the neighbourhood. In addition to the application as presented, the Sub-Committee added a further three conditions to the Licence variation. The Sub-Committee returned to the Chamber and the Chairman informed the participants of the Sub-Committee's decision.

RESOLVED:

That the application to vary a Premises Licence at the Nu Bar in Loughton be granted subject to the conditions contained within the application, and the following additional conditions agreed at the meeting in relation to:

- (a) That a minimum of four SIA registered door staff be on duty from 7.00pm until 30 minutes after the close of the premises on Thursday to Sunday evenings inclusive;
- (b) That the volume of noise emanating from the premises be monitored by the Premises Supervisor (or representative) and be adjusted in order to ensure that noise from the premises be inaudible at the façade of the nearest noise sensitive premises; and
- (c) That no glasses or bottles be removed from the premises by customers at any time.

CHAIRMAN