

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Licensing Sub-Committee                      **Date:** 16 September 2013

**Place:** Council Chamber, Civic Offices,                      **Time:** 6.30 - 8.25 pm  
High Street, Epping

**Members Present:** K Angold-Stephens (Chairman), A Boyce (Chairman) and Mrs R Gadsby

**Other Councillors:** -

**Apologies:** A Mitchell MBE

**Officers Present:** A Mitchell (Assistant Director (Legal)), S Kitts (Licensing Officer) and G J Woodhall (Democratic Services Officer)

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### 60. DECLARATIONS OF INTEREST

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

### 61. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

### 62. PREMISES LICENCE VARIATION - NU BAR, 153 HIGH ROAD, LOUGHTON IG10 4LF

The three Councillors that presided over this item were Councillors Angold-Stephens, Gadsby and Boyce. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the applications were: B-E Jung, Counsel; A Perera, Greene King; and M Cleary, operator of the premises. In attendance having made objections to the application were: S Weston, Loughton Residents Association and Loughton Town Council; A Richardson, resident; M Roach, resident; and D Roach, resident. Also in attendance was D Baker, Planning Officer with Epping Forest District Council. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

#### The Application before the Sub-Committee

The Assistant Director of Corporate Support Services (Legal) informed the Sub-Committee that an application to vary a Premises Licence had been received in respect of the Nu Bar at 153 High Road in Loughton, along with representations from interested parties. The application had requested permission to: extend the hours for the supply of alcohol, live music, recorded music, performance of dance and anything similar on a Sunday until 1.00am the following day (currently 12.00am); extend the hours for late night refreshment on a Sunday until 1.00am the following day (currently 11.30pm); and extend the opening hours of the premises on a Sunday until 1.00am (currently 12.30am). All other opening times, licensable activities and seasonal variations were to remain unaltered.

The Assistant Director stated that representations regarding the application had been received from Essex Police, Essex Fire & Rescue Service, the Children's Safeguarding Service, the local Planning Authority, Loughton Town Council, the Loughton Residents Association, Pastor Roland Brown, Haslers (a local business) and eleven local residents. The representation from the Police offered one further condition to be added to the licence for the premises and an amendment to an existing condition:

(i) CCTV covering the internal & external of the premises will be installed and maintained. It will be recording at all times the premises are open to the public and will be kept in an unedited format for a period not less than 28 days. The images are to be made available to the Police, Local Authority or Trading Standards for inspection upon lawful request.

(ii) Employment of a minimum of four SIA registered door staff to be on duty from 1900 until 30 minutes after the closure of the premises on Fridays, Saturdays and Sundays.

The Police representation stated that they would have no further objections to the variation if the applicant agreed to the two conditions above.

#### Presentation of the Applicant's Case

The applicant's Counsel stated that Greene King was a responsible corporation and the current operator of the premises had been in situ for twelve months. There had been no criminal incidents and no formal complaints had been received. The premises was not a nightclub but a prestige bar where tables could be booked for £400 per night. The premises had a capacity of 150, but this was rarely reached on a Sunday night, and a Dress Code and Behaviour Code were in operation.

The application was a modest request to extend the licensing hours by 1 hour on a Sunday, as people tended to come out later on a Sunday now. There was a nearby club called Luxe which was licensed to serve alcohol until 1.00am on a Sunday and the Nu Bar was requesting the same business opportunity.

Counsel reminded the Sub-Committee that there were already stringent conditions on the licence for the premises, as outlined on pages 38 and 39 of the agenda pack, and the Police had offered no objections provided two further conditions that had been outlined earlier were added to the Licence. Following the publication of the agenda, the premises had offered six further conditions for the Sub-Committee to consider, to address the concerns raised by the representations:

(i) A drugs policy will be written and implemented at the premises to ensure that best practice is observed by staff and management to ensure that no drugs are permitted inside the premises and if they are found, the appropriate action is taken. This policy will be reviewed in conjunction with the police licensing officer and all staff/door-staff will be trained as required to ensure proper implementation. All members of staff will sign a record to state that he/she has completed training on the drugs policy within one month of starting employment. The record will be made available to officers of the council upon request.

(ii) On nights where a queue is formed by customers waiting to get into the premises, the manager will ensure that it is properly monitored and that those waiting to gain entry behave in an appropriate manner to ensure that they do not disturb residents.

(iii) Any complaints from residents will be noted in a dedicated complaints log. This log will include the time and date of the complaint, the names of the person making the complaint and the member of staff dealing with it and any remedial action taken. This log will be made available to the police and responsible authorities on reasonable request.

(iv) A dispersal policy will be implemented at the premises to ensure that customers leave as quickly and quietly as possible. Signs will be displayed to this effect.

(v) The final 15 minutes of regulated entertainment on a Sunday night will be lower in volume and shall be designed to ensure that customers leave in a calm manner. In addition, house lights will be turned up 15 minutes before the terminal hour for the sale and supply of alcohol.

(vi) Speakers will not be placed in or facing the entrance at any time.

Turning to the representations that had been received, Counsel stated that there had been no issues raised regarding the protection of children from harm or public safety, although it was highlighted that weekly risk assessments were carried out, toughened glass were used for the glasses at the premises and glasses were not permitted to leave the premises to prevent the street being littered with broken glass. In respect of the prevention of crime and disorder, the Police objections had already been dealt with and no further guidance had been given. For the prevention of public nuisance, the majority of the representations had referred to noise from the premises and noise from patrons outside the premises. Counsel advised the Sub-Committee that the music speaker facing the main door had been removed, and the windows of the premises were closed by 9.00pm each evening. The noise limiter within the premises had been recalibrated to ensure it was working in accordance with the existing condition on the Licence. People who were refused entry to the premises often continued to the Luxe, and it was possible that noise from these premises were being attributed to the Nu Bar.

In conclusion, Counsel highlighted the applicant's agreement to the two new conditions offered by the Police, and the six additional conditions voluntarily offered by the applicant. The proposed queue policy, dispersal policy, the dedicated complaints log and the procedures to be followed for the final 15 minutes of regulated entertainment on a Sunday night were emphasised. The Sub-Committee was advised that SIA registered door staff would be on duty on Sunday evenings, as requested by the Police, and that one or two of these staff could patrol the immediate vicinity of the premises to ensure noise levels were kept to a minimum, with the threat to ban miscreants from the premises if necessary. Counsel assured the Sub-Committee that the applicant took their responsibilities very seriously, and that the implementation of the extra conditions offered by both the Police and applicant would ensure that the premises met their obligations to uphold the four Licensing Objectives.

#### Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Counsel stated that the licence for off-sales were a remnant from the premises' history as a public house, and the applicant was content for this permission to be removed from the licence. Counsel reiterated that the music speaker facing the front of the premises had been removed and the noise limiter had been recalibrated to ensure it was set to an appropriate level. Some of the complaints regarding noise had originated from residents in

Connaught Avenue, which was situated closer to the Luxe than the Nu Bar, and members of staff had been patrolling Ollards Grove to monitor the levels of audible noise from the premises. It was acknowledged that a complaint about noise at 1.30am in the morning had been made but the premises had already closed at this time, whilst responsibility for a second complaint about the Disc Jockey still playing at 12.30am had to lie with Luxe as the Disc Jockey at the Nu Bar had finished at 12.00am that evening.

#### Questions for the Applicant from the Objectors

In response to questions from the Objectors present, Counsel stated that the extra hour requested for Sunday evenings would improve the viability of the business as the additional time would equate to extra drinks being sold. The level of the noise limiter was initially set by the Council's Environmental Health team; the recalibration was to ensure that the limiter was still set to this level. It was hoped that the moving of the speaker facing the front entrance would also alleviate problems, particularly with bass levels. The Disc Jockey also would be requested to turn down the bass levels whilst he was performing.

Counsel stated that management could not control customers once they had left the premises, they could only encourage good behaviour while customers were in the premises and before they left. There was a taxi rank outside the premises which customers used when they left. Greene King were responsible operators, and if the extra hour was granted on Sundays then it was likely that customers would leave gradually between 12.00am and 1.00am rather than all at closing time. There was no evidence of customers leaving the premises at 2.00am and none of these complaints had been brought to the attention of the premises.

Counsel regarded the objections offered by the Local Planning Authority as 'very general' and the suitability of the High Road in Loughton as a location for a licensed premises was not a relevant consideration under the Licensing Act 2003. Counsel emphasised that the dedicated complaints log would be available for review by the responsible authorities and the applicant would be in breach of their licence if they failed to respond to any complaints made by residents. If this occurred then residents would be able to apply to the Council for a review of the licence.

Counsel explained that a double door system at the entrance to the establishment to further control the noise from the premises had been investigated but could not be implemented. However, other methods to control the noise from the premises would be investigated. It was reiterated that all windows at the premises were shut by 9.00pm and the Disc Jockey would be requested to turn down the bass levels while music was being played. The operator of the premises regularly checked the noise emanating from the premises by walking the local streets in the evening.

#### Presentation of the Objectors' Case

Mr A Richardson introduced himself as a local resident, who also owned a flat in Ollards Court that he rented out. Mr Richardson had owned the flat for a year but was now on his third tenant in that time. The first tenant had left because of the disturbances from the premises and the third tenant had made a representation (page 51 of the agenda pack). Mr Richardson commented that, with the existing disturbances on Friday and Saturday nights still continuing, residents should not have to suffer further late night disturbances on Sundays as well.

Mr M Roach, in attendance with his wife, was also a local resident who resided in the High Road, Loughton and their representations began on page 60 of the agenda

pack. Mr Roach highlighted the key issues identified in their representations and added that the moving of the speaker facing the entrance had not made any noticeable difference to the noise levels from the premises as they had complained again to the premises on the Saturday night just gone. It was felt that the premises should implement a double door system to the entrance to prevent more of the noise escaping. It was also emphasised that the number of taxis at the Taxi Rank outside was not sufficient for the number of customers leaving the premises, as this was also a cause of noise disturbance, and it was felt that the Door Staff should assist in managing this queue.

Mrs S Weston, representing both Loughton Town Council and the Loughton Residents Association and whose representations were at pages 45 and 46 of the agenda pack, stated that it was clear from the many complaints from residents in the area there were issues with the premises which could be not be blamed on Luxe, and that the premises should be more responsible for their patrons when they left the establishment. There was no parking at the establishment, hence customers parked in the nearby residential streets which then disturbed residents especially when the customers left late at night. Customers leaving the premises at 2.00am had already been highlighted.

#### Presentation of the Planning Officer's Case

The Planning Officer drew the Sub-Committee's attention to his letter on page 44 of the agenda pack. The Planning Officer stressed that the application was concerned with Sunday night/Monday early morning when local residents would be asleep prior to work or school in the morning. Further disturbances akin to Friday and Saturday nights in the vicinity would be intolerable to residents. The additional licence conditions being offered were welcomed, and it was acknowledged that individuals were responsible for their behaviour once they had left the immediate vicinity of the premises. It was also felt that the majority of patrons would not read the dispersal policy. Most of the complaints that had been received were low level Anti-Social Behaviour which would not necessarily result in the Police being notified, and it was felt by the Planning Authority that to allow the requested extension to licensed hours would be one disruptive night too many for the majority of residents.

#### Applicant's Closing Statement

Counsel stated that this was a modest application for an extra hour of trade on Sunday evenings, which was in accordance with the objectives of the Licensing Act 2003 and the Council's own Licensing Policy. A number of additional conditions had been proposed for addition to the Licence, by both the applicant and the Police, and the dispersal policy in particular was highlighted as it would help to alleviate some of the concerns raised by local residents. The Sub-Committee was reminded that if further objections were received regarding the premises in the future then a review of the licence could be activated.

#### Consideration of the Application by the Sub-Committee

The Sub-Committee considered all the representations from residents and the Planning Authority very carefully, and noted in particular the withdrawal of the Police representation following the agreement by the applicant of two additional conditions to be added to the Licence. The Sub-Committee noted the evidence of noise disturbances in the vicinity of the premises, and the allegations that the current licence was being breached, however there was no supporting evidence from the Council's Environmental Health team.

The Sub-Committee accepted that it was a finely balanced decision whether to grant the application or not, and acknowledged that the current guidance issued for the Licensing Act 2003 stipulated that the premises could not be held responsible for any noise generated 100 yards further down the High Road. It was noted that, in addition to the two new conditions agreed with the Police, a further six new conditions for the licence were being offered by the applicant as part of the application.

The Sub-Committee agreed, reluctantly, to grant the application, subject to the eight additional conditions being added to the Licence and the removal of Off Sales from the Premises. The Council's Environmental Health team would be requested to perform regular noise monitoring visits, and residents should be encouraged to make any further complaints to both the premises and the Environmental Health team. The premises would be requested to provide the Council with a copy of its proposed Dispersal Policy.

The Chairman informed the participants of the Sub-Committee's decision, and stated that the Licence would be reviewed if sufficient evidence was received of noise complaints against the premises in the future. The applicant was advised that they had 21 days in which to appeal the Sub-Committee's decision at a Magistrates Court if they so wished.

**Resolved:**

(1) That the application to vary a Premises Licence at the Nu Bar, 153 High Road, Loughton be granted subject to the conditions contained within the application, and the additional conditions agreed at the meeting in relation to:

(a) CCTV covering the internal and external of the premises be installed and maintained, and be recording at all times the premises were open to the public. Recordings to be kept in an unedited format for a period of not less than 28 days, and to be made available to the Police, Local Authority or Trading Standards for inspection upon lawful request;

(b) Employment of a minimum of four SIA registered door staff to be on duty from 7.00pm until 30 minutes after the closure of the premises on Friday, Saturday and Sunday;

(c) A Drugs Policy to be written and implemented at the premises to ensure that best practice was observed by staff and management to ensure that no drugs were permitted inside the premises and if they were found then the appropriate action was taken. This policy would be reviewed in conjunction with the Police Licensing Officer and all staff and door staff would be trained as required to ensure proper implementation. All members of staff to sign a record stating that he/she had completed training on the drugs policy within one month of starting employment and the record to be made available to Officers of the Council upon request;

(d) On nights where a queue was formed by customers waiting to get into the premises, the Manager would ensure that it was properly monitored and that those waiting to gain entry behaved in an appropriate manner to ensure that they did not disturb residents;

(e) Any complaints from residents should be noted in a dedicated complaints log, and should include the time and date of the complaint, the name(s) of the person(s) making the complaint, the member of staff dealing

with it and any remedial action taken. This log to be made available to the Police and responsible authorities on reasonable request;

(f) A dispersal policy to be implemented at the premises to ensure that customers would leave as quickly and quietly as possible. Signs to be displayed to this effect;

(g) The final 15 minutes of regulated entertainment on a Sunday night to be lower in volume and should be designed to ensure that customers would leave in a calm manner. In addition, house lights should be turned up 15 minutes before the deadline for the sale and supply of alcohol; and

(h) Speakers should not be placed in or facing the entrance at any time;

(2) That the condition to permit sales of alcohol for consumption off the premises be removed from the Licence;

(3) That a copy of the Dispersal Policy referred to in 1(f) above to be provided to the Council upon implementation;

(4) That the Council's Environmental Health Team be requested to undertake regular noise monitoring visits to the premises; and

(5) That residents be requested to make future complaints to both the premises and the Council's Environmental Health team.

**CHAIRMAN**