

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 12 April 2016

Place: Council Chamber, Civic Offices, **Time:** 10.04 am - 12.08 pm
High Street, Epping

Members Present: R Morgan (Chairman), K Chana, D Dorrell and R Gadsby

Other Councillors: J Knapman

Apologies:

Officers Present: J Nolan (Assistant Director (Neighbourhood Services)), K Tuckey (Licensing Manager), R Ferriera (Assistant Solicitor), N Clark (Licensing Compliance Officer), L Turner (Licensing Compliance Officer), A Hendry (Senior Democratic Services Officer) and M Jenkins (Democratic Services Officer)

84. DECLARATIONS OF INTEREST

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

85. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

86. NEW PREMISES LICENCE - SPIRIMIX, 12 BROOK WAY, CHIGWELL IG7 6AA

The three Councillors that presided over this item were Councillors R Morgan, D Dorrell and R Gadsby. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application were:

- (a) Ms C Morgan, the applicant;
- (b) The applicant's father; and
- (c) Mr N McCann, solicitor for the applicant.

In attendance to object to the application were the following persons:

- (i) District Councillor J Knapman, ward member representing an objector Mrs D Read;
- (ii) Chigwell Parish Council;
- (iii) Ms L Armitage – local resident;
- (iv) Mr and Mrs Bedford – local residents;

- (v) Mrs D Read – local resident;
- (vi) Mr and Mrs Berman – local residents;
- (vii) Mr T Casey – local resident;
- (viii) Ms I Davis – local resident;
- (ix) Mr J Keating – local resident;
- (x) Mrs R Langham – local resident;
- (xi) Mr J Reef – local resident; and
- (xii) Mr and Mrs Specterman – local residents.

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 Licensing Officer informed the Sub-Committee that an application for a new Premises Licence had been made by CPL Training on behalf of Ms C Morgan who ran a business called Spirimix at 12 Brook Way, Chigwell, Essex IG7 6AA. The business sold alcohol to the public via the Internet from Monday to Sunday from 09.00 to 17.00 hours. The application concerned the storage of alcohol in an outbuilding at the applicant's residence, it being noted that the facility was not publicly accessible.

The sub-committee were advised that a consultation had been undertaken by the Council and consequently 11 representations had been received. It was noted that the police had requested a condition and were not now objecting. There were no objections from the other statutory authorities consulted.

(b) Presentation of the Applicant's Case

The applicant's solicitor, Mr N McCann, began by explaining that the applicant rented a warehouse in Northampton from Selco where her products, sachets of Vodka in presentation boxes, were sold through the online mail order service – Amazon. The applicant had found that using the warehouse was hindering her business operation and proving costly so she wanted to use her garden shed for storage of the sachet boxes. The applicant sold 15 boxes per week and if her business became more successful she would return to using the warehouse for storage.

The solicitor pointed out that there were no representations from the statutory authorities and that this application was a low risk one. The applicant had written to local residents advising of the changes she was requesting, there would be no increase in traffic in the local area as there would be no direct sale of alcohol from her premises, the products being posted to customers. No deliveries or business would be occurring between 18.00 and 08.00 hours. To improve security, the property would have a significant number of CCTV cameras with double doors on the storage facilities, three fire extinguishers on site and smoke alarms. The solicitor said that all sales deliveries were signed for, the site, he felt, would be more secure than an off-licence. The sub-committee reminded members that the applicant could still

store alcohol on site in any case. This application brought the business operation under the licensing regime, if breached the authority could take punitive action.

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

The Chairman asked how many boxes of Vodka sachets were being sold per week? The applicant replied that 15 were sold. Were the ages of buyers checked before sale? Yes they were checked through Amazon.

The Sub-Committee asked how the sachets were delivered? The applicant explained that she received the sachets from the warehouse in Northampton which she rented and from her home in Chigwell, she posted the sachet boxes to customers. She confirmed that there was no collection from her home and that she could only work Post Office hours of service.

(d) Questions for the Applicant from the Objectors

Councillor J Knapman, representing objector Mrs Read, said that he was a member of the Essex Fire Authority, the fire service had been consulted on the application. He asked how many sachet boxes could be stored at the applicant's house/premises. The applicant replied 800. Councillor J Knapman asked if it was possible to process 800 boxes per day or week. The applicant replied she was likely to process at least 15 per week, the Councillor posed that therefore, the application was not built on the basis that this business would be successful. The applicant replied that she was willing to propose a condition that a maximum of 50 boxes of sachets per week in respect of sale be stored at her premises.

(e) Presentation of the Objector's Cases

Councillor J Knapman expressed concern that if this business grew it could cause disruption for local residents, he asked at what point would this small scale business operation move away from Brook Way if the applicant became more successful. He pointed out that Vodka was a flammable liquid which may cause problems if stored here in quantity. Finally he said that Brook Way was a residential area, Government guidance around alcohol storage referred to public houses, theatres and sports clubs but not residential areas, he was not aware of anybody else undertaking a similar business in the district.

The Sub-Committee heard next from local resident Mr Bedford. He had lived in Chigwell for 60 years. Mr Bedford advised members that there was only one other business in the vicinity of Brook Way. The area had approximately 246 houses with roads varying in width from 25 to 30 feet and about 750 cars. About 80% of the houses had front gardens altered for parking.

At this point, the Legal Officer intervened and advised that the issues at stake concerned the application and not highways, particularly as the County Highways authority had not made any objection to the application. Mr Bedford replied that this area should not have commercial properties.

(f) Questions from the Sub-Committee to the Objectors

Members asked the objectors if they would be objecting if the applicant was selling jewellery instead of alcohol. They replied that they would as this was a residential area.

(g) Questions from the Applicants to the Objectors

There were no questions.

(h) Applicant's Closing Statement

The applicant's solicitor stated that the business concerned was effectively run from a kitchen table. This was a relatively new type of application, and would bring this activity within the licensing regime. If the business enlarged, the applicant would limit the number of boxes sold. Any breach in the legislation could lead to a prosecution.

The Legal Officer asked the applicant if they could confirm that sales at point of delivery had an ID check. The applicant confirmed that this was undertaken by Amazon. At this point one of the objectors who had spoken earlier, Mr Bedford, asked if the Sub-Committee knew the Chigwell area, they replied that they did. He then attempted to ask how many local people had either supported or objected to the application. The Legal Officer intervened saying that this issue had been dealt with at the start of the meeting.

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

At 10.50a.m. the Sub-Committee left the Council Chamber to consider the application. During their deliberations members wanted clarification on where the boxes stored in the applicant's shed would go.

At 11.16a.m. the Sub-Committee returned to the Council Chamber to clarify the applicant's business operation intentions. The applicant explained that it was her intention for the boxes to be mailed directly to the customer but without the need for warehouse storage in Northampton. She confirmed that sales would be signed for and ID checked.

At 11.20a.m. the Sub-Committee left the Council Chamber to consider the application. At 11.25a.m. they returned to the chamber.

RESOLVED:

That the application for a new Premises Licence in respect of Spirimix, 12 Brook Way, Chigwell IG7 6AA be granted subject to the conditions consistent with the operating schedule together with those that have been agreed with Essex Police namely:

(1) That the premises shall install and maintain a comprehensive CCTV system covering the premises, specifically covering all entry and exit points enabling full frontal identification of every person entering in any light condition. The CCTV system shall continually record at all times. All recordings will be kept in an unedited format for a period of not less than 28 days with time and date stamping. Recording shall be made available immediately upon lawful request of Essex Police or another responsible authority. Download or export of CCTV should be in the native file format with the native player;

(2) That the mandatory conditions contained in Sections 19-21 of the Licensing Act 2003 are adhered to;

(3) That in respect of the prevention of public nuisance, that a maximum of 50 boxes of Vodka sachets per week in respect of sales be stored on the premises; and

(4) That in respect of the protection of children from harm, the applicant's couriers and drivers should be instructed to carry out age verification and that photo ID is checked if the person appears to be less than 18 years of age. That the applicant's terms and conditions should incorporate a requirement that proof of age will be required in order for the delivery to take place.

The Licensing Sub-Committee considered that these were appropriate and necessary for the promotion of the licensing objectives.

The applicants and objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

87. APPLICATION FOR EXPEDITED SUMMARY REVIEW OF PREMISES LICENCE - NU BAR, 153 HIGH ROAD, LOUGHTON, ESSEX IG10 4LF

Presiding over this application were Councillors R Morgan, D Dorrell and R Gadsby.

The Licensing Manager outlined to the sub-committee that an application had been made by Essex Police for an Expedited Summary Review on the Nu Bar, 153 High Road, Loughton, Essex IG10 4LF. 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 T Roe of Essex Police the premises were associated with both serious crime and disorder.

In attendance on behalf of the application were Superintendent T Mitchell, Brentwood and Epping Forest Police, P Jones, Brentwood and Epping Forest Police Licensing Officer and J Nash an Essex County Council Licensing Officer.

In attendance on behalf of the Nu Bar were Mr M O'Connor and Mr M Cleary, the Designated Premises Supervisor (DPS). The application for a summary review was for the sub-committee to determine whether steps were needed to suspend the licence for the Nu Bar.

The Chairman invited Mr P Jones, Brentwood and Epping Forest Police Licensing Officer to present the application. Mr P Jones advised that in the early hours of Sunday the 10 April 2016 a fight was reported outside the Nu Bar, it was established that two males were victims of serious injuries. The police systems had revealed that there were numerous incidents over the last 12 months, a number of which were also classified as serious.

The Assistant Director Environment and Neighbourhoods informed members that interim steps should be taken within 28 days of the application.. The licence holders could appeal the interim steps which would involve a further meeting 48 hours later.

Mr P Jones added that any suspension imposed could involve conditions, for example a reduction in hours, an increase in the number of door staff, searching of customers, drinking vessels to be made of bi-carbonate, no carrying of glassware and no admittance after 22.00 hours. The Sub-Committee suggested that the proposed conditions were not connected to the recent violence. Mr P Jones replied that they were connected to the pattern of violence over 12 months.

At 11.48a.m. the Sub-Committee retired from the Council Chamber for private deliberation. They returned at 12.06p.m. and the Chairman announced their decision.

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

- (a) Article 1 of the First Protocol of the Human Rights Act 1988 that every person was entitled to the peaceful enjoyment of his possessions and no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law; and
- (b) That any decision made in respect of the premises licence for Nu Bar, 153 High Road, Loughton, Essex IG10 4LF must be necessary and proportionate.

RESOLVED:

That the premises licence for Nu Bar, 153 High Road, Loughton, Essex IG10 4LF be suspended until a full hearing is heard.

Reasons for the Decision:

The Sub-Committee considered that the decision it had taken was appropriate, proportionate and in the public interest in the promotion of the licensing objectives under the Licensing Act 2003 with regard to the prevention of crime and disorder, public safety and the prevention of public nuisance.

Appeal:

The holder of the premises licence were advised that they could make representations to the Licensing Authority against any of the interim steps taken by the Sub-Committee.

CHAIRMAN