

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 29 January 2019

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 1.56 pm
High Street, Epping

Members Present: P Keska (Chairman), J Jennings, S Neville and M Sartin

Other Councillors:

Apologies:

Officers Present: A Hendry (Senior Democratic Services Officer), K Tuckey (Licensing Manager), D Houghton (Licensing Compliance Officer), J Nolan (Service Director (Commercial & Regulatory Services)), R Ferriera (Assistant Solicitor) and S Devine (Service Manager Regulatory)

36. DECLARATIONS OF INTEREST

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

37. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

38. FULL SUMMARY REVIEW OF PREMISES LICENCE - CLUB 195, COTTIS LANE, EPPING, ESSEX, CM16 4BL

The three Councillors that presided over this item were Councillors P Keska, S Neville and M Sartin.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the summary review. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the applicant was P Jones (Essex Police Licensing Officer), R Hanstock (Counsel for Essex Police) and G Ashford (Licensing Manager for Essex Police). On behalf of the License premises were R Bhowse (Counsel), S Panesar (Solicitor), N Wood, M Younger, S Pembury (Sentra Solutions Ltd.), S Cummings and D King (the premises DPS) (Directors of KAC Entertainment Limited). Also in attendance was Councillor N Avey, Town Mayor of Epping Town Council.

The Chairman mentioned that he had been approached by a Town Councillor who had wished to speak at today's hearing. However having taken advice from officers he had agreed that the request had come in after the consultation period and was therefore inadmissible.

(a) The Application before the Sub-Committee

The Licensing Compliance Officer, D Houghton, explained that this hearing was to hear an application for a summary review brought by Essex Police for Club 195, Cottis Lane, Epping, CM16 4BL. This was made 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 affect immediately: "To suspend the Premises Licence until the Review hearing as there was a danger of further serious crime and serious disorder."

The application for the full review was advertised in accordance with the legislation inviting representations from Responsible Authorities and Interested Parties.

(b) Presentation of the Applicant's Case

Mr Hanstock, on behalf of the Police said that they had called this review because of crime and disorder matters arising from Club 195. They were asking revocation of the licence in this case as evidence justified these steps and was not to be taken lightly.

He outlined the incidents that took place on 1st January 2019 in or around Club 195, when a man got stabbed on the dance floor inside the club; this incident was not covered by CCTV. The person who carried out this assault had entered illegally as the club had failed to secure that entrance. No staff had witnessed the incident. In the Companies submission, paragraphs 43 to 46 there was no acceptance of responsibility here, even after reflection. This was wilful blindness and reinforced the Police's position.

Other later incidents had also occurred outside the premises that night, at 03.03hrs, a male was being knocked unconscious, losing teeth and sustaining a punctured lip. Thirteen police officers attended and a GBH investigation was on-going. There was also large scale disorder happening at the same time out on the streets spilling out from Cottis Lane onto the High Street. This was at a time when no other establishment was open in that area and showed a pattern of disturbance happening at this time over the preceding year. Again there had been no acceptance of responsibility for this by the management.

CCTV footage from this incident would be shown to the meeting and there were statements covering this in the document pack.

Similar incidents happened on 23, 22 and 2 December, 14 October, 15 April, 4 March and 4 February 2018. All these incidents (and others) were documented in their document pack.

He noted that the Police had used a stepped approach in their handling of these incidents and referred the meeting to the Police letter dated 14 February 2018 which was a final warning letter which set out breaches in conditions and resulting recommended variations in their conditions. Since this warning letter, the incidents had continued and things did not get better. Finally, revocation of the licence was the only step left.

The Licensee had said that the door company should not be removed and this was a choice for the licensee as the Police does not direct them to any particular company and did not recommend any company.

Since the suspension of their licence there had been no reported incidents of disorder in the High Street.

The case for suspension of the licence was clear and this proved the case for revocation. There was case law for this (case of East Lindsey District Council v Abu Hanif (2016)), and this would be a clear message that this Sub-committee would not stand for this type of behaviour

Following this submission CCTV footage was shown to the attendees at the meeting showing incidents during the mornings of 1st January 2019, 23rd, 22nd and 2nd December 2018 as illustrative of the incidents occurring on the High Street and Cottis Lane.

(c) Questions for the Applicant from the Premises Holder

There were no questions to the applicant.

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

The Sub-Committee asked about the differences of the high-viz tops worn by the Police and the door security people as in the CCTV footage it was confusing telling one from the other. The Sub-Committee were told that the door staff had longer fluorescent bands on their tabard and the Police had thinner bands on their jackets.

(e) Presentation of the Premises Holder's Case

Mr Bhose opened by saying he did not understand why the Sub-committee had suspended the licence after the 1st January 2019 incident. This was not indicative of what happened at the Club and was a one-off incident.

The problem was with the dispersal policy and they were seeking to put more door supervisors into Cottis Lane and the High Street. With the further conditions that have been offered this would ensure that the Licensing conditions would be satisfied and would create a safer club. If you were satisfied we would welcome changes in conditions to the licence. There was no need to reduce opening times or revoke the licence. Revocation would cause the loss of 28 jobs in this area.

This is a well run premises which has been there for 15 years, but has had a few recent issues. It should be recognised the role the Club has played in the economy of the town. The Police have relied on incidents that have happened over the last year.

Mr Bhose then asked the Sub-Committee to consider the plan of the inside of the Club, showing a plan of the first floor and indicating the steps up to the flat. It also showed the main entrance, the smoking area towards the rear car park surrounded by 3 foot metal fencing. There was a small gap at the end of the fencing, used to escort people from the club. A supervisor was constantly stationed at the door supervising patrons who go in up the stairs into the club.

The club opens only one evening a week, on a Saturday and had been operating like this for the last 3 years. They currently have plans for refurbishment.

Mr Cummings and Mr King were experienced licensees and it was Mr King who set up 'Pubwatch' in the area. In their documents bundle there were letters from the business community in the area supporting them. He also noted that this was not a residential area, but he also had a letter of support from the nearest resident, Councillor Church.

His clients' focus was on running a safe and successful nightclub. They would operate with a minimum of 7 door supervisors and a maximum of 16, in excess of

what was required. They wanted to run a safe and comfortable club. At the front door would be stationed 3 door staff supervising two queues and carrying out searches. Inside they would scan the documents/IDs of the people before they go in.

The Door company has been operating here for 11 years and he noted that the Police had recommended them to other venues and say that they do not have a problem with this company and state in their documents that they have, at times, been helped by the security people.

My clients will search everyone who enters the premises, not just the recommended 4 out of 10. Every night staff will remove any bottles from the high street to keep their patrons safe. This is over and above what they need to do.

There has been no violence in the Club except for this recent incident on new year's day when a group did evade the security and got in through the smoking area. The supervisors acted appropriately and split up the people arguing. They did not know at the time that there had been a stabbing. The victim had been given first aid and an ambulance called.

It should be noted that the CCTV is a state of the art system and complies with the Essex Police Standards.

The Licensee also proposed that in addition to the security officer stationed at the smoking area an additional member of staff will be stationed there. They also propose to put in new 6 foot high fencing around the smoking area and operate a system of wrist bands when going out to smoke. Because of these additional measures he was confident that there would be no repetition of this type of incident.

As for dispersal at closing time. It was unfair to blame his clients for everything that went on outside. They needed a more robust presence in Cottis Lane and the High Street. At present there was no condition for this and they go further than asked for.

Near the end of the night the DJ would play softer music and by 2am put it to a background level; at 3am the door supervisors would encourage clients to leave. Once the club is empty they would go out onto the High Street to marshal people into the taxis. From 1.30am 2 door supervisors would be outside patrolling Cottis lane and the High Street, their sole function being to patrol area and disperse people. From 2am there will be 2 supervisors at the front door, 3 inside and the others outside helping dispersal. There can be up to 11 door supervisors patrolling and they were satisfied that this would more than meet the concerns of the Police and ensure that problems did not reoccur.

The new conditions, listed in their documents, would be more than satisfactory and there would be no need for revocation of the licence. He quickly went through the proposed police conditions noting that police's proposed metal detecting arch was, in their view, unnecessary as no customers had sought to come in with metal implements and their proposed search was quicker and as efficient. Given this they would accept all the conditions except condition 7.

They did not agree to the amending of closing times to earlier as they thought it was unnecessary because of the counter measures they had proposed to put in place. Also 5 other premises in that area close at 1 to 1.30am and this would increase the amount of people and stress in the area at that time. They would also cease to be a destination venue and would not be financially viable.

It was also unclear why the Police want them to close for 3 months. They have been closed for 3 weeks already and it would take time to implement any new procedures.

(f) Questions to the Premises Holder from the Sub-Committee

The Sub-committee noted that their trading hours were from 22.00 to 03.00 and their capacity was 653 persons, what was the average number of people that attended the club? They were told that it was between 250 and 325.

Following on from this they asked when the management would put on extra staff? They were told that they would monitor ticket sales during the week and by Friday would know how many door staff would be needed.

The Sub-committee then asked what were the various roles of the staff in the club. They were told that the majority were bar staff / glass collectors, with reception staff and waitresses and were all appropriately trained.

They were then asked if any food was served and were told that no food was provided.

The Sub-committee noted that the recent incident happened when some people came in through the smoking area. How many ways were there for getting into the club? They were told that there were 5 exits, all manned. The front ones had 2 or 3 persons stationed there, 1 by the staircase and between 1 and 2 for each other exit.

The Sub-committee asked what was 'Clubscan', as it was mentioned in the documentation. They were told that 'Clubscan' was an automatic system used to check IDs; it was used as a deterrent and the police used it as an audit tool.

Asked if they had female door staff they said that they did, they always had at least one female member of the door staff to conduct female searches.

The Sub-Committee asked if drinks were served in glass or plastic containers. They were told that they used plastic glasses, but they could buy cans, but not bottles.

The Sub-Committee then asked how frequently were their policies revisited and were told that they were reviewed regularly with occasional small changes being made, but no major ones.

The Sub-Committee then asked about the incident in February 2018 when there were some inappropriate staff occurrences. They were told that this was a bad incident with bricks being thrown at the doormen, who then handled it inappropriately.

The Sub-committee then asked what was the gender balance of the patrons, did males dominate? They replied that generally they liked to have 65% female there and have at time refused admission to males if this proportion was not being met.

(g) Questions from the Applicant to the Premises Holder

The applicant's counsel noted that the club had been open for 14 years and had a review in 2009 when the previous licence had been revoked and then Mr King took it over. Mr King agreed that he had taken over after this.

The applicant asked was it right that after numerous incidents the venue is to open Friday and Saturday nights. Mr King said this was a long term plan once

refurbishment took place and they would review the nights they were to open. There were no plans for the near future.

The applicant's counsel noted that Mr King was involved with another premises in Chingford where at a recent review 2 conditions had been added; one that Sentra not be used and secondly that Mr King be there on Friday and Saturday nights. Mr King replied that he would employ a new DPS here to free him up.

The applicant noted that the premises holder's policies were all dated 2009, with no new or renewed ones. Under their dispersal policy the third to last bullet point that starts 'it is acknowledged that a degree of cooperation...' how did this provide any assurance to the Sub-committee. Also under their fire notice and procedures they refer to a draft notice on responsibility of summoning the fire brigade but this notice was not included in the bundle. The drugs policy page refers to another venue and the CCTV policy on its second page is the only places where lighting is referred to and does nothing to address the concerns raised by the police and their drunkenness policy seems to be taken from another venue.

Mr King replied that the policies were reviewed in 2009 and some have since been changed and reviewed, they have not been cut and pasted from elsewhere. The dispersal policy referred to the 'Pubwatch' scheme and there was a system in place we use to evacuate the premises. We also have regular checks made by our CCTV company. Unfortunately the area where this incident happened was not covered by our CCTV. And the drunkenness policy was drawn up for the club. The Counsel for the premises holders added that they would be reviewing all their policies in conjunction with the police.

The applicant's counsel noted that the dispersal policy referring to the door staff patrolling Cottis Lane, these policies were to be reviewed. But, the updated policies that the Club worked under were needed here at this committee but, despite the time they have been closed they could have updated it then. The Counsel for the premises holders said that they would need amending but it did have an existing dispersal policy and it will be reviewed.

The Sub-Committee asked Mr King to tell them about 'Pubwatch' and the use of walkie-talkies with different venues and when did it stop. Mr King said that other venues did not want to continue this scheme and people stopped coming or responding to them.

(h) Statement of the Objector

Councillor N Avey spoke on behalf of Epping Town Council. He relied on their written objection reproduced in the paperwork it was a straight forward matter supported by a number of residents. This type of establishment will always attract 'bad' people. Epping was a small market town and not the place for a night club.

(i) Closing Statement from the Premises Holder

Mr Bhose had nothing further to add to his statement.

(j) Closing Statement from the Applicant

Mr Hanstock had nothing further to add to his statement.

(k) Consideration of the Summary Review by the Sub-Committee

The Sub-Committee withdrew from the meeting to consider the application in private. During their deliberations the Sub-committee received the following advice from the officers present:

1. Article 1 of the first protocol of Human Rights Act 1988 that every person is entitled to the peaceful enjoyment of his possessions (in this case the Licence). 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.
2. That any decision made in respect of the premises licence for Club 195, Cottis Lane, Epping, Essex CM16 4BL must be necessary and proportionate.

RESOLVED:

1. The decision of this sub-committee is that the premises licence for Club 195, Cottis Lane Epping is revoked.
2. This decision was arrived at in the light of the evidence presented at the hearing, namely:
 - The repeated and very serious crime and disorder associated with the premises.
 - The lack of confidence in the management in how they have implemented their current policies and procedures.
 - The lack of confidence that the DPS had proper control of the premises.
 - The lack of faith in management being able to successfully implement additional conditions.
3. That the interim step i.e. the suspension imposed on 4th January 2019, under Section 53 (B) of the Licensing Act 2003 shall remain in effect until the hearing of the appeal against the revocation (if there is one).
4. The applicant or premises licence holder or any other person who made relevant representations to the application are reminded of their right of appeal to the Magistrates' Court within 21 days of the date of the written notification of this decision.
5. The decision will not have effect until after the end of the period given for appealing against the decision, or if the decision is appealed against, the time the appeal is disposed of. The suspension shall remain in effect until the time for appealing the review has expired and any appeal has been determined

CHAIRMAN