

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 7 March 2017

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 12.40 pm
High Street, Epping

Members Present: B Surtees (Chairman), A Lion and C P Pond

Other Councillors: -

Apologies: L Mead

Officers Present: A Mitchell (Assistant Director (Legal Services)), K Tuckey (Licensing Manager), G J Woodhall (Senior Democratic Services Officer), J Nolan (Assistant Director (Neighbourhood Services)) and N Clark (Licensing Compliance Officer)

50. DECLARATIONS OF INTEREST

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

51. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

52. EXCLUSION OF PUBLIC AND PRESS

Resolved:

(1) That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the items of business set out below as they would involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption was considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
5	Hackney Carriage Driver's Licence – Mr A Rowmon	1
5.a	Hackney Carriage Driver's Licence – Mr N Ali	1

53. HACKNEY CARRIAGE DRIVER'S LICENCE - MR A ROWMON

The Sub-Committee considered an application for a Hackney Carriage Driver's Licence by Mr A Rowmon. The three Councillors that presided over this item were Cllr B Surtees (Chairman), Cllr A Lion and Cllr C P Pond. 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 Licensing Manager informed the Sub-Committee of the circumstances under which the Licence could not be issued under delegated authority.

The Applicant made a short statement 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 considered the application.

The Chairman invited the Applicant back into the Chamber and informed him of the Sub-Committee's decision.

Resolved:

- (1) That the application for a Hackney Carriage Driver's Licence by Mr A Rowmon be granted; and
- (2) That the Applicant be given a verbal warning regarding his future conduct.

54. HACKNEY CARRIAGE DRIVER'S LICENCE - MR N ALI

The Sub-Committee considered a possible suspension or revocation of the Hackney Carriage Driver's Licence held by Mr N Ali. The three Councillors that presided over this item were Cllr B Surtees (Chairman), Cllr A Lion and Cllr C P Pond. Members noted that Officers did not have delegated powers to determine this issue 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 Licensing Manager informed the Sub-Committee of the circumstances under which the Licence could not be determined under delegated authority.

The Applicant made a short statement in support of his case 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 considered the issue.

The Sub-Committee noted that the Applicant's Licence had already been suspended for one month since the previous meeting of the Sub-Committee, held on 7 February 2017. The Chairman invited the Applicant back into the Chamber and informed him of the Sub-Committee's decision.

Resolved:

- (1) That the Hackney Carriage Driver's Licence for Mr N Ali (H1103) be reinstated; and
- (2) That a strong written warning be given as to Mr Ali's future conduct in relation to the requirement of Licensing Policy and the need to safeguard the public.

55. INCLUSION OF PUBLIC AND PRESS

Resolved:

- (1) That the public and press be invited back into the meeting for the remaining items of business.

56. STREET TRADING CONSENT - PALM BAY CARIBBEAN, THE BROADWAY, DEBDEN

The three Councillors that presided over this item were Cllrs B Surtees (Chairman), A Lion and C P Pond. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the application was Mr L Campbell, the applicant; there were no objectors in attendance. 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 Licensing Manager informed the Sub-Committee that an application for a Street Trading Consent had been received from Mr L Campbell for a stall at The Broadway in Loughton, trading as Palm Bay Caribbean. The application requested permission to sell Caribbean food and soft drinks between 10.00am and 4.00pm on Tuesdays and Fridays, and between 10.00am and 3.00pm on Saturdays. It was noted that the applicant already traded at this location every Thursday as part of the regular weekly market in The Broadway. Following a public consultation exercise on the application, both Essex Police and Loughton Town Council stated that they had no objections to the application.

Presentation of the Applicant's Case

The Applicant, Mr Campbell, made a short presentation in support of his application. The Applicant stated that he was already trading in the area on a Thursday as part of the Market, and he simply wanted to extend the number of days that he could trade at this location. The Applicant highlighted to the Committee that no objections had been received to his application.

Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Campbell explained that he would park the Catering Trailer on site and then park his car in a nearby garage. Mr Campbell also confirmed that the application was requesting consent to trade on Tuesdays, Fridays and Saturdays as he already traded at the location on a Thursday as part of The Broadway Market.

The Licensing Manager reminded the Sub-Committee that it was granting consent to trade in the whole street and not a particular pitch on that street. It was also highlighted that no response had been received from Essex Highways concerning the application.

Applicant's Closing Statement

The Applicant made a short statement in support of his application and requested that the Committee grant his application for a Street Trading Consent in The Broadway.

Consideration of the Application by the Sub-Committee

The Chairman requested that the Applicant leave the Chamber whilst the Sub-Committee considered the application in private. The Sub-Committee received no further advice from the Officers present, and noted that there had been no objections received in relation to the application.

The Chairman invited the Applicant back into the Chamber and informed him of the Sub-Committee's decision.

Resolved:

(1) That the application for a Street Trading Consent by Mr L Campbell for a Caribbean Food and Soft Drinks stall at The Broadway in Loughton be granted, subject to the Council's standard conditions for a Street Trading Consent and the following hours of operation:

- (a) Tuesday and Friday 10.00am to 4.00pm; and
- (b) Saturday 10.00am to 3.00pm.

57. ADJOURNMENT

The Chairman adjourned the meeting at 11.20am for a short comfort break.

The Chairman reconvened the meeting at 11.30am.

58. SUMMARY REVIEW OF PREMISES LICENCE - NU BAR, 153 HIGH ROAD, LOUGHTON

The three Councillors that presided over this item were Cllrs B Surtees (Chairman), A Lion and C P Pond. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the premises were: Mr M Phipps, Solicitor for Greene King Retailing Limited; and Mr M O'Connor of Greene King Retailing Limited. In attendance on behalf of Essex Police were: P Jones; G Ashford; and J Nash. In attendance on behalf of the Licensing Authority was Mr J Nolan and Mrs N Clark. There were no Objectors in attendance. The Chairman then introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the review.

The Application before the Sub-Committee

The Licensing Manager stated that Essex Police had made an application for a Summary Review of the Premises Licence issued to Nu Bar at 153 High Road, Loughton on 9 February 2017, under Section 53A of the Licensing Act 2003. It was the opinion of Essex Police that the Premises were associated with serious crime and serious disorder. Within 48 hours of receiving the application from Essex Police, the Council as the Licensing Authority had agreed to suspend the Premises Licence until a full review hearing could be scheduled. This meeting represented the full review hearing and the Sub-Committee was tasked with determining the future of the Premises Licence.

Mr P Jones of Essex Police reported that this was the second review of the Premises Licence undertaken during the last twelve months, with the previous review having been considered in May 2016. The application to suspend the Premises Licence had resulted from incidents that occurred on the night of 4/5 February 2017 where there was suspected admittance of patrons after the permitted hours, and a suspected fight within the Premises at approximately 1.15am resulting in injuries which required paramedical attention. Consequently, Essex Police was requesting the removal of the Designated Premises Supervisor and the agreement of the following proposed hours of operation for the Premises:

- (a) Opening Hours Monday to Sunday 8.00am to 11.30pm;
- (b) Sale of Alcohol & Recorded Music 11.00am to 11.00pm;
- (c) Seasonal variations for Sale of Alcohol & Recorded Music to be 12.00am, 1.00am on New Year's Eve; and
- (d) Seasonal variations for Opening Hours to be 12.30am, 1.30am on New Year's Eve.

In addition, Essex Police was also requesting the imposition of 22 new conditions on the Licence.

Presentation of the Premises' Case

Mr M Phipps, representing Greene King, informed the Sub-Committee that the evidence submitted by Essex Police, and the letters submitted to the Review Hearing, made sorry reading and gave a poor impression of Greene King – which was highly unusual. Greene King entirely accepted the evidence provided by the Police, offered no challenge to it, and accepted that there had been a flagrant disregard of the Licence conditions at the Premises. Greene King had been striving to remove the Operator and regain possession of the Premises, and this had been finally achieved on 3 March 2017.

Mr Phipps completely accepted that the Police wanted the nature of the Premises to change from being a late-night venue that was entertainment led. The proposed hours of operation were old-style pub hours not club hours, and this had been backed up by the amended operating schedule which would entirely replace the existing operating schedule. It was also highlighted that the Premises would no longer be known as 'The Nu Bar'.

Mr Phipps emphasised some of the new proposed conditions to the Sub-Committee:

- (1) Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol was sold or supplied for consumption on the premises up to 9.00pm.
- (2) After 10.00pm each day, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them; notices to that effect would be displayed at the premises exits.
- (3) The premises shall install and maintain a comprehensive CCTV system.
- (5) A 'Challenge 25' scheme would be operated, whereby any person who appeared to be under 25 years of age was required to produce means of identification proving they were over 18 years of age; the only acceptable forms of identification were a photo driving licence, passport, Military ID Card or Proof of Age Card with the PASS hologram.
- (7) An incident log shall be kept at the premises, and made available on request to the Police/Local Authority.
- (20) Section 177A(2) of the Licensing Act 2003 was to have no effect and both live and recorded music were to be treated as regulated entertainment.

Mr Phipps highlighted that the proposed new condition (20) dis-applied the de-regulation of musical entertainment, which was now to be treated as regulated entertainment under the Licensing Act 2003.

Mr Phipps also invited the Sub-Committee to continue the suspension of the Premises Licence, imposed on 10 February by the Council at the request of Essex Police, for a further 21 days. It was obvious that the Premises needed a change of emphasis as a business and a prolonged cooling off period would help with this; hence the request to continue the suspension of the Premises Licence. Greene King wanted to avoid a third review of the Premises at all costs, and accepted that the Premises would be closed down permanently if there were any more issues.

Questions for the Premises from the Sub-Committee

Mr Phipps stated that the existing Designated Premises Supervisor no longer had any rights to the Premises; Essex Police wanted that individual removed from the Licence at the Premises, and Greene King had no objection to this. There was dialogue with the previous Operator, and attempts were made to get them to comply with the previous conditions on the Licence, although it was accepted that more effort should have been made. Greene King decided in October 2016 that the previous Operator of the Premises had to go, but it did take a little time to achieve this.

Mr Phipps acknowledged that the core business of Greene King was public houses, serving alcohol up to 12 midnight usually. The business being operated at The Nu Bar did not conform to this model. The Premises was shut during the afternoons and there were generally no customers before 9pm whenever the Premises was visited.

Mr Phipps welcomed the representations from Residents for this review had acknowledged some improvement at the Premises after the previous review, however it was also noted that the Premises had not traded much in the previous ten months which might have explained the slight improvement.

Mr Phipps informed the Sub-Committee that the informal discussions with Essex Police would continue to further cultivate the relationship recently established, and accepted that this process should have been initiated earlier. Greene King hoped that Essex Police accepted their efforts to improve the Premises were in good faith, and fully acknowledged that if the recent dialogue was not maintained then Essex Police would initiate a further review of the Premises.

Greene King would undertake their usual vetting process of the potential new Operator, which worked in 99% of cases although it was accepted that it didn't previously at the Premises, and would introduce the potential new operator to Essex Police. There would be regular weekly visits and discussions with the new Operator by the Regional Managers to ensure that the previous problems at the Premises would not recur.

Questions for Essex Police from the Sub-Committee

Mr G Ashford stated that Essex Police was initially looking for a full revocation of the Licence at the Premises; however, Essex Police acknowledged that Greene King was generally a responsible Licence Holder across the county and was happy for them to have a second chance to run a business at the Premises. It was reiterated that this was a final opportunity for the Premises to trade without causing a public nuisance.

Mr Ashford confirmed that the amended operating schedule had been agreed with Greene King; Appendix A contained the retained conditions, whilst Appendix B contained the additional or new conditions for the Premises Licence.

Mr Ashford confirmed that the Premises owned by Greene King across the county were generally well run, although it was emphasised that if the Operator of the Premises had not been removed then Essex Police would have sought to have the Premises closed down. It was stated emphatically that Essex Police would object to any further applications for Temporary Event Notices or variation of hours made by the Premises.

Closing Statement from Essex Police

Mr Jones stated that Essex Police requested the removal of the Designated Premises Supervisor from the Licence, and the new hours and conditions provisionally agreed with Greene King to be imposed on the Premises.

Consideration of the Application by the Sub-Committee

The Sub-Committee considered the summary review of the Premises requested by Essex Police.

In its deliberations, the Sub-Committee received no further advice from the Officers present and took account of the fact that Greene King, the Licence Holder, had given assurances that they would maintain an effective dialogue with Essex Police. The Sub-Committee felt that Greene King should be reminded of the need to maintain this dialogue with Essex Police to help prevent any further public nuisance occurring at the Premises.

The Sub-Committee found that there had been repeated and very serious instances of crime and disorder at the Premises, and felt that the proposed conditions agreed between Essex Police and Greene King were necessary to prevent any further crime and disorder occurring again at the Premises in the future. In addition, the interim step imposed on the Premises Licence should continue, and the Licence should be suspended for a further 21 days as requested by Greene King. Finally, the Sub-Committee concurred with Essex Police and agreed that the Designated Premises Supervisor should be removed from the Licence with immediate effect.

Resolved:

(1) That the following revised hours of operation and licensable activities be agreed to replace the current hours of operation and licensable activities:

- (a) Opening Hours, Monday to Sunday 8.00am to 11.30pm;
- (b) Sale of Alcohol & Recorded Music, Monday to Sunday 11.00am to 11.00pm;
- (c) Seasonal Variations for Opening Hours to be 12.30am, 1.30am on New Year's Eve; and
- (d) Seasonal Variations for Sale of Alcohol & Recorded Music to be 12.00am, 1.00am on New Year's Eve;

(2) That the conditions set out in Appendix A and Appendix B (as attached) be agreed to replace the current operating schedule;

- (3) That the Designated Premises Supervisor, Ms S Collins, be removed from the Premises Licence;
- (4) That the current suspension of the Licence for the Premises, imposed by the Licensing Authority on 10 February 2017 as an interim step, be continued for a further period of 21 days from the date of notification of this decision; and
- (5) That Greene King be reminded to continue their recent dialogue with Essex Police concerning the Premises to prevent future occurrences of public nuisance.

CHAIRMAN

Nu Bar: Amended operating schedule

It is proposed that the operating schedule on the current premises licence, with the exception of mandatory conditions and the conditions listed in appendix A is deleted from the licence and replaced with the conditions listed in appendix B

APPENDIX A

Retained conditions

Door Staff

The premises licence holder or DPS shall maintain an accurate and up to date register in respect of all door supervisors working at the premises when open to the public. The register will comprise of (a) the name, badge number, dates and times of commencement and finish of work; (b) the signature of the door supervisor; (c) details of any incident the door supervisor is involved in including details of any calls to the Police and any Police action taken

The door supervisor register shall be made available to the Police and an authorised officer upon request.

Whilst on duty door supervisors shall wear high visibility jackets and identifying logo

Smoking Area

The smoking areas shall be monitored by staff and/or door supervisors to ensure that there are no more than a maximum of 20 persons at any one time using this area
Clear signage shall be publically displayed regarding maximum numbers in the area

Drugs Policy

The premises shall have an agreed written drugs policy, this will detail the strategies to minimise the use and supply of illegal substances within the premises, handling, retention and collection/delivery of any article seized to Essex Police for disposal. The drug policy shall include a structured training policy for all staff covering the issue of misuse of drugs in relation to licensed premises. Zero Drugs tolerance posters shall be clearly and prominently on public display within the premises
The drugs policy shall be agreed and submitted to Essex Police and the Licensing Authority which shall be reviewed annually.

Staff Training

All persons that sell or supply alcohol to customers must have licensing and drug awareness training. Training should take place within six weeks of employment and any new employees will be supervised until training has taken place. Refresher training should be repeated every six months. Training records must be kept on the premises and shall contain the nature, content and frequency of training. Records must be made available for inspection by the Police or an authorised officer on request either electronically or hard copy. Training must include (a) avoiding sales of alcohol to persons under the age of 18; (b) recognising customers who appear drunk and refusing sale of alcohol; (c) knows the licensing objectives; (d) have read and understood the licensing conditions; (e) can point out where the licence summary is displayed; (f) understands consequences for breaching legislation that can impact on them and/or the licensee; (g) drug misuse awareness; (h) have relevant contact details of the DPS or the licensee

Protection of Children from Harm

All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or Police.

APPENDIX B

Additional conditions

- 1 Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 21:00 hours.
- 2 After 22.00 each day patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them. Notices to that effect will be displayed at the premises exits.
- 3 The premises shall install and maintain a comprehensive CCTV system.
Specifically:
 - I. CCTV will be provided in the form a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition
 - II. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale/supply of alcohol occurs
 - III. Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in good working order, numbered sequentially and kept for a period of 31 days and handed to the police or Licensing Authority on request
 - IV. The Premises Licence Holder must ensure at all times a DPS or other member of staff is capable of and competent at downloading CCTV footage in a recordable format to the Police or Licensing Authority
 - V. The recording equipment and tapes/disc shall be kept in a secure environment under the control of the DPS or other responsible named individual or post holder.
 - VI. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions are to be recorded within 4 hours of discovery.
- 4 Suitably worded signs of sufficient size are displayed at all ingress and egress to the premises, fire exits and all areas where the sale/supply of alcohol occurs, advising customers that CCTV is operating at the premises. Signs must be clearly visible and readable taking into account the lighting conditions in the vicinity of the signs when the premises is open for licensable activities and a minimum size of 200 x 150 mm.
- 5 A 'Challenge 25' scheme is operated, whereby any person who appears to be under 25 years of age is required to produce means of identification proving they are over 18 years of age. The only acceptable forms of identification are a photo driving licence, passport. Military ID card or proof of age card with the PASS Hologram
- 6 Signs will be located at the point of sale and in the area where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.
- 7 An incident log shall be kept at the premises, and made available on request to the Police/Local Authority.

It must be completed within 4 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder

(e) all seizures of drugs or offensive weapons

(f) any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence

(g) any refusal of the sale of alcohol

(h) any visit by a relevant authority or emergency service.

The register must be kept on the premises and will detail (a) day, date and time of incident; (b) the nature of the incident; (c) the resolution; (d) each entry is to be checked by the DPS or other person holding a supervisory capacity no later than one week after the entry has been made

- 8 No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- 9 During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- 10 There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
- 11 No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.30 hours and 06.00 hours on the following day.
- 12 All windows and external doors shall be kept closed after 20:00 hours when regulated entertainment takes place, except for the immediate access and egress of persons.
- 13 No music emanating from the premises will be heard at the boundary of any noise sensitive accommodation in the vicinity of the premises. Checks will be undertaken on every 30 minutes during regulated entertainment to ensure that this condition is complied with. A record of the checks will be maintained in writing and made available to officers from the police or council on request.
- 14 No live music will be played at the premises, with the exception of non-amplified live music.
- 15 Recorded music provided at the premises is only to be provided through the premises internal speaker system ('the house speaker system').
- 16 The playing of recorded music shall be incidental to any other activity
- 17 Loudspeakers from the house speaker system shall not be located in the entrance lobby or outside the premises building.
- 18 On any occasion where the premises conducts licensable activities past 23:00 hours, a minimum of 4 SIA registered doorstaff will be employed from 21:00 hours until 30 minutes after the permitted opening hours.
- 19 After 23:30 hours SIA licensed door staff shall, as far as is possible, prevent patrons leaving the premises with bottles, glasses or drinking vessels. To facilitate this process, there shall be provided conspicuous signage, visible to patrons at each ingress/egress explaining this policy. There shall be provided a suitable bin at the exit(s) for the safe temporary storage of glassware/bottles surrendered.
- 20 Section 177A(2) of the Licensing Act 2003 is to have no effect and both live and recorded music are to be treated as regulated entertainment.
- 21 Where the supply alcohol of alcohol is authorised under a temporary event notice all conditions of this licence will apply – save those conditions relating to regulated entertainment.

22 No unaccompanied persons under the age of 16 shall be permitted on the premises.

Informative:

1 The premises will not trade under the name 'Nu Bar'