

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 3 May 2016

Place: Council Chamber, Civic Offices, **Time:** 10.00 am - 3.40 pm
High Street, Epping

Members Present: A Boyce (Chairman), A Lion, G Shiell and B Surtees

Other Councillors:

Apologies:

Officers Present: J Nolan (Assistant Director (Neighbourhood Services)), R Perrin (Democratic Services Officer), A Mitchell (Assistant Director (Legal Services)), L Turner (Licensing Compliance Officer), K Tuckey (Licensing Manager) and A Hendry (Senior Democratic Services Officer)

92. DECLARATIONS OF INTEREST

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

93. PROCEDURE FOR THE CONDUCT OF BUSINESS

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

94. EXCLUSION OF PUBLIC AND PRESS

The Sub-Committee considered a request from Essex Police concerning CCTV footage that was required to be excluded from the public and press on the grounds that the information to be given to the Sub-Committee would prejudice ongoing criminal investigations

RESOLVED:

The public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
4	CCTV Footage and Background Papers	7

95. SUMMARY REVIEW OF PREMISES LICENCE - NU BAR HIGH ROAD LOUGHTON

The Chairman of the Sub-Committee, Councillor T Boyce welcomed the participants and introduced the Members and Officers present. The three Councillors that presided over this item were Councillors T Boyce, A Lion and B Surtees. The Chairman then requested that the participants introduced themselves to the Sub-Committee.

In attendance on behalf of the premises were; P Warne, Counsel for Greene King Retailing Ltd, M Cleary, the Owner and Designated Premises Supervisor (DPS), M O'Connor and M Greens from Greene King Retailing Ltd and S Maxhuni, the Head Doorman at the Premises.

In attendance representing the Essex Police were; A Ranatunga and F Philpott, Counsel for Essex Police, Superintendent T Roe, G Ashford for Essex Police, J Nash County Licensing Officer for Essex Police and T Mitchell for Essex Police.

(a) The Review before the Sub-Committee

The Assistant Director of Environment and Neighbourhoods, J Nolan advised that on 11 April 2016 an application for an Expedited Summary Review of a Premises Licence under Section 53A of the Licensing Act 2003 had been received from Essex Police in respect of a Premises Licence issued to The Nu Bar, Loughton, Essex, IG10 4LF. The certificate stated that in the opinion of Essex Police Superintendent Trevor Roe, the Premises had been associated with both serious crime and disorder. On 12 April 2016, a Licensing Sub-Committee considered the Essex Police's review application and decided that the Premises Licence should be suspended until a Review hearing could be heard, because the Sub-Committee felt that there could be a danger of further serious crime and disorder.

Following the Licensing Sub-Committee's decision, the Premises Licence Holder submitted representations against the interim step imposed and a hearing was held on 14 April 2016. The Licensing Sub-Committee determined that the suspension would remain in place until a full hearing could be heard within a statutory period of 28 days on 3 May 2016, as the Sub-Committee decided that the original decision of the panel on the 12 April 2016 was proportionate and reasonable under the circumstances. The application for the full review was advertised in accordance with Section 53(A)(3)(c) of the Licensing Act 2003 and Regulation 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

It had been suggested and agreed that the Police would present their evidence first with the additional CCTV footage from 10 April 2016. The Sub-Committee were advised that the incident on 10 April 2016 was currently under investigation by the Police and therefore the public and press should be excluded from the meeting when discussing the evidence and CCTV footage.

The press and public were excluded from the meeting at 10.45 a.m. whilst the CCTV footage was shown and discussed.

The CCTV footage was shown of events of the incident which occurred on 10 April 2016 which involved alcohol drinks being served after the licensing hour, a fight breaking out outside the Nu Bar, regained access to the Nu Bar by a suspect.

The press and public were allowed back into the meeting at 11.05 a.m.

(b) Submission by Essex Police

A Ranatunga advised that it was for the Sub-Committee to consider what was proportionate and appropriate for the Premises Licence in order to prevent crime and disorder. The Police had requested that there should be a reduction in licensable hours to midnight and that the premises closed at 12.30 a.m.

A Ranatunga presented evidence of violent incidents reported to the Police over the last 12 months that had mentioned the Nu Bar. The majority of them had occurred after midnight, when levels of alcohol were presumed to be higher in patrons using the premises. He advised that the Expedited Review had been processed quickly following the incident in the early hours of Sunday 10 April 2016 and a search of the Police data bases had flagged up 17 crimes within the last 12 months, which had reported the location of the Nu Bar. A Ranatunga advised that although there had not been a direct link between some of the incidents and the Nu Bar, there had been cause for concern and of the 17 incidents, 7 of them occurred after midnight and directly linked the Nu Bar.

A Ranatunga advised that the Epping & Brentwood Licensing Officer, P Jones had supplied a witness statement in addition to the Superintendents certificate for the Expedited Review of the Premises Licence for the Nu Bar. He advised that although P Jones could not be with them in person, he had provided email correspondence between the Nu Bar and himself prior to the incident on 10 April 2016. A Ranatunga advised that the Nu Bar had been previously subject to an Action Plan earlier in 2015, following two serious incidents on 8 March and 28 March 2015. P Jones had advised that there had been major failings in the management of the premises, but because of a previous good working relationship, an action plan had been agreed. A Ranatunga advised that a correction was required with regards to the comments in the Superintendent's statement about the visit at the premises on 27 February 2016, whereby the DPS had 'just popped out' and that the DPS should have been present in accordance with Section 1(a) of the licence, which was incorrect and should be disregarded by the Sub-Committee.

A Ranatunga went through the 7 incidents that had been reported to the Police and had occurred after midnight, which consisted of;

- A broken jaw and bottled incident with a suspect within the Nu Bar;
- Assault outside the Nu Bar and by the Owner of the Nu Bar;
- Witnessing of bouncers at the Nu Bar holding a man down and kicking the victim;
- Pepper sprayed victim within the Nu Bar;
- Fight within the Nu Bar between two groups of girls who were intoxicated;
- Large fight in the carpark of the Nu Bar with knife attack; and
- Two groups of girls threatening each other and had caused problems when leaving the Nu Bar.

A Ranatunga advised that even after following the action plan, further serious incidents had occurred and now the Police had to step in, with the premises requiring stricter conditions in order to prevent further crime and disorder.

A Ranatunga asked Superintendent T Roe to go through the events following the incident on 10 April 2016. Superintendent T Roe advised that he was the Duty Operation Officer for Harlow, Epping & Brentwood area on 10 April 2016 and following the incident which had been determined as both serious crime and serious disorder, he had requested that officers checked the various Police data base systems for any other incidents that had involved the Nu Bar in the last 12 months.

The Police's Athena system had recorded 17 crimes from within and/or in close proximity of the Nu Bar, which had been classified as ; 1 Attempted Murder, 2 GBH, 2 Attempted GBH, 6 ABH, 2 Common Assault and 2 Theft and the Essex Police Bacchus Licensing System had recorded 23 incidents. Having considered this information he completed the Expedited Review certificate being issued to the Nu Bar and the Licensing Authority.

The Community Officer for Brentwood & Epping, Inspector Tom Mitchell advised that there had been a disproportionate amount of crime reported, which had mentioned the Nu Bar and that the other premises within the immediate proximity, such as Luxe were also of concern on a District level. The Police had serious concerns about operation of the Premise Licence within in the law and had recommended that the licensing conditions were modified to reduce the licensing activities to 12 a.m. and for the premises to close at 12.30 a.m. This would also prevent flash points between premises and staggered closing times with the area.

(c) Questions by Sub-Committee

Councillor T Boyce enquired about the mentioning of a shot and asked what this was. A Ranatunga advised that it was normally classed as a small measure of a sprit that was not beer or wine, was served in a small glass and normally drank in one motion. P Warne advised that the shots identified were Tequila Rose, which had been served in 25ml measurements and were about 9%.

Councillor A Lion enquired about the Action Plan implemented in April 2015 and that if the Police had been satisfied with the progress of the Nu Bar, was the plan no longer required? A Ranatunga advised that the Action Plan had been agreed in order to prevent further intervention by the Police and in the email correspondence, P Jones had advised that the continuation of the Action Plan would be monitored.

Councillor B Surtees asked the Police what other premises closed around the same time as the Nu Bar. Mr A Ranatunga advised that only the Lux Bar was in the vicinity and that closed at 3 a.m.

Councillor B Surtees asked how a Police Officer would judge whether a person was fit to be served alcohol from CCTV footage. Superintendent T Roe advised that from CCTV it would be hard to judge whether a person was fit to be served alcohol as an officer would normally judge the person on a face to face bases. Mr A Ranatunga advised that the person was served two shots and he looked to be swaying on the CCTV footage.

Councillor B Surtees asked Superintendent T Roe whether he thought that the incident on 10 April 2016 was adequately controlled by the staff at the Nu Bar. Superintendent T Roe advised that training for any staff was very important, especially in those types of situations where someone was knocked unconscious and there had been a concern with regards to a delay in First Aid being provided. A Ranatunga advised that the Police also had concerns over the suggested 8 door supervisors in the proposed new operating schedule by the Nu Bar, when the industry standard suggested 1 per 100 customers.

Councillor A Lion asked why it had taken this long for Police action against Nu Bar. Superintendent T Roe advised that the Police were there to encourage and support businesses within the community, which allowed them to run their business without intervention from the Police and that the Premises had been following an Action Plan.

Chairman asked that the meeting be adjourned for a comfort break at 12.10 p.m.

The meeting re-convened at 12.15 p.m.

Mr A Ranatunga advised the Sub-Committee that clarification had been sort for the Alcohol by Volume (ABV) for Tequila Rose and it was in fact 17%.

(d) Questions by Premises Counsel

The Counsel had no direct questions to the Police.

The press and public were excluded from the meeting at 12.40 p.m. whilst the Premises Counsel discussed the CCTV footage and evidence from the Police.

(e) Submission by the Premises

P Warne advised that they had provided the Police with a document pack in relation to the summary review of the premises licence of Nu Bar which included; a statement from Mark Cleary; proposed new operating schedule; a Dispersal Policy; a serious Incident Policy; commentary on CCTV photo stills; and statements from Shefqet Maxhuni, the head door man, Sarah Collins, a barmaid and Julie Jolly the Compliance & Commercial Manager, Pub Partners for Greene King.

P Warne advised that M Cleary was very disappointed and upset by the incident and felt that the Nu Bar was not to blame for incident. If the Police's recommendations and in particular the licensable hours were reduced the business would be destroyed as it was a night club and only opened Thursday to Sunday. M Cleary had worked together with P Jones and the emails between himself and P Jones showed good working practises, cooperation and that the incidents outside the premises could not be controlled by the Nu Bar. P Warne advised that Green King Ltd had not been notified by the Police about any of the incidents over the last 12 months, therefore perhaps not carrying the weight that the Police now relied on for this review. He advised that if the Sub-Committee were to look at the incidents and evidence, could they suspend the licence and take away the Owners livelihood? P Warne advised that the evidence and incidents spoken about were mainly outside the premises and therefore could not be aligned solely with the Nu Bar and any incidents that had involved the NU Bar, had been dealt with and/or the Police were contacted. The vicinity of the Premises was also near another late night premises Luxe, a Taxi rank, kebab shop and tube station.

Guys hung around outside to talk to girls and the management could not do much if people were hanging around outside the premises. The Owner had requested Policing within this area to prevent any disorder occurring and had even offered to help fund their presence to prevent people hanging about.

P Warne advised that the incident on 10 April 2016 could not be determined as solely the responsibility of customers attending the Nu Bar. P Warne advised that of the 17 incidents mentioned within the Police data bases they could not hold the premises as accountable and that customers who attended the premises needed to be responsible for themselves.

(f) Questions from the Sub-Committee

Councillor A Lion enquired about the proposed policy on 'no children after 8 p.m.' P Warne advised that children were not allowed into the Nu Bar but that a condition had been transposed from an earlier licence for the premises.

Councillor A Lion asked about members of the public being taken through the premises after the incident on 10 April 2016, as the premises should have been closed. P Warne advised that they were taken away from the incident at the front of the premises for safety reasons.

(g) Objector - Statement from David Linnell, Loughton Residents Association

Mr D Linnell advised that the Nu Bar was unsuitable for a residential area and that a various incidents and fights had broken out. He was not convinced that this would stop with the conditions suggested by the Premises Holder. He advised that it was the wrong type of business for the area and that the residents had suffered enough with the type of anti-social behaviour that had resulted from this type of premise.

(h) Closing Statement by the Police

A Ranatunga advised that the Sub-Committee should look at the licensing objectives for guidance and that the Police had requested that the licensable hours were reduced and the additional conditions were put in place to prevent further crime and disorder. From the CCTV footage shown, the premises had served a person after the licensable hours and this had a detrimental effect on the victim. A person had entered the premises and collected a glass bottle, which he had taken out of the premises without being stopped and even though Police involvement with the action plan had been concluded, the conditions had still resulted in another serious incident. He advised that on behalf of Essex Police, if the Premises licence was to remain the same the following conditions should be added;

- That marshalling of the Taxi queue by provided and phone number of taxi firm;
- A no return to the premises policy, if a person had previously left that evening; and
- All drinks were to be decanted into polycarbonate drinking vessels.

(i) Closing Statement on behalf of the Premises Licence Holder

P Warne advised that there had been a lot of information put forward for this review and that the Police had pointed towards the Nu Bar for some of these incidents, although Members needed to be sure that the premises management contributed to the cause of these incidents.

The evidence had not supported the Police's conclusion of bad management and this review needed to be dealt with proportionately and reasonably.

P Warne advised that the following evidence needed to be considered;

- customers needed to be responsible for their own actions;
- the intoxication level of the victim on 10 April 2016 could not be established from the CCTV;
- there had been a possibility that one of the drinks may have been served just after the licencing hours and staff would be reprimanded and re-trained;
- the Owner would take on board the Police's comments about the Taxi marshalling;
- that the Premises had been managed responsibly; and
- New operational conditions and policies would be implemented.

(j) Consideration of the Review by the Sub-Committee

The Sub-Committee retired to consider the application in private session.

The Licensing Sub-Committee were satisfied that the application had been treated on its own merits and had taken the decision upon:

- The application for a summary licence review
- The certificate under S53A(1)(b) of the Licensing Act 2003
- The policy of the Licensing Authority
- The relevant representations received and the video
- Guidance issued
- The licensing objectives

During the deliberations in private session the advisory officers referred the Sub-Committee to the Section 53A of the Licensing Act Summary - Review Guidance.

The Sub-Committee advised that the reason for the decision had been the history of incidents leading to serious violence and disorder at/or outside the premises and the Sub-Committee had taken into account the steps that could of been taken, which included revocation or suspension of the Licence. The Police had previously agreed an action plan with the Designated Premises Supervisor but there had been a number of incidents following its implementation, including the incident on Sunday 10 April 2016, which had indicated to lapses in the adequate management of the premises. The Sub-Committee had taken into account the Police representations that the majority of the incidents had taken place after midnight and that conditions to be imposed were consider to be reasonable or proportionate to achieve the licensing objectives.

The decision of this Sub-Committee after considering the representations against the interim steps taken by the Licensing Authority was that the current conditions of the premises licence remain on the licence but were modified as set out in the conditions below and that the interim steps imposed on 14 April 2016 would remain in full force and effect until 21 days from the date of this decision or the determination of any appeal against it lodged within that period.

RESOLVED:

(1) That the current conditions of the premises licence remain on the licence and were modified for the purpose of Prevention of Crime and Disorder and Public Nuisance, as follows;

Hours

All licensable activities to cease at midnight and the premises to be closed at 00:30 hours.

Seasonal variations for activities listed in the Licence shall be 11:00 hours – 01:00 hours and the premises to be closed at 01:30 hours.

CCTV

- CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
- Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale/supply of alcohol occurs.

- 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 authorised officer on demand.
- The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable of and competent at downloading CCTV footage in a recordable format either disc or in an appropriate digital format as required by the police, to the local Police or authorised officer. CCTV should be in a native file format with the native player
- The recording equipment and tapes/disc or other required format shall be kept in a secure environment under the control of the DPS or other responsible named individual
- 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
- In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS must report the failure by email to: licensing.application@essex.pnn.police.uk or such other address as may be notified to the Designated Premises Supervisor from time to time.

Digital ID Scanning

- There shall be installed digital ID scanning equipment which is capable of facial recognition technology

Door Staff

- There shall be a minimum of 6 door supervisors on duty from 19:00 until 45 minutes after cessation of licensable activities if open to the public beyond midnight on any day of the week
- 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
- Door supervisors will undertake body searches and bag searches and at least one male and one female door supervisor must be available to undertake body searches of the same gender before gaining entry to the premises
- Any person who refuses to be searched shall be refused entry
- Whilst on duty door supervisors shall wear high visibility jackets with an identifying logo.

Door Control Policy

- There will be door control policy that outlines clear instruction and understanding of the door supervisors responsibilities at the premises. The policy will contain (a) how door staff will prevent overcrowding both inside and outside the premises; (b) searching procedures; (c) preventing patrons leaving with alcohol; (d) to provide written statements to the Police of any criminal investigation as and when required

Incident Register

- The Premises Licence Holder or DPS must keep an incident register. Staff are to be trained to complete an incident in the register immediately after the incident has occurred or at least by the end of the shift. 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 Premises Licence Holder no later than one week after the entry has been made
- The register is to be made available to Essex Police or an authorised officer on request either electronically or hard copy.

Dress Code

- Persons shall not be allowed entry wearing hats or garments with hoods
- Persons refusing to comply with the dress code shall be refused entry
- There shall be clear signage on public display stating the dress code.

Last Entry

- There shall be no persons allowed entry or re-entry after midnight on any night of the week
- The Premises Licence Holder shall erect and maintain clear and prominent notices on the exterior of the premises advising patrons of the actual operating hours of the premises including last entry times
- No drinking vessels shall be permitted outside the premises including the smoking area

Dispersal Policy

- The premise shall have a written dispersal policy that outlines the procedure for management, door supervisors and staff. The policy shall contain procedures on (a) supervising queues to avoid any unacceptable behaviour; (b) clear display of notices regarding the start of queuing areas/lanes; (c) phone numbers of taxi firms displayed inside the premises; (d) door supervisors ensuring no loitering outside the premises; (e) procedures on refusing entry or banning those who repeatedly cause a nuisance by noise or rowdy behaviour; (f) a monitoring system to be implemented with regards to re-entry e.g., wrist bands or ultra violet marking
- The dispersal policy shall be submitted to the Police and the Licensing Authority which shall be reviewed annually.

Drinking Vessels

- All drinking vessels shall be made of a polycarbonate material
- No drinks shall be served in glass bottles save champagne table service.

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 publicly displayed regarding maximum numbers in this 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 issues 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 to be 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**

- An approved proof of age scheme shall be adopted, implemented and advertised within the premises such as “Challenge 25” whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

- No children to be permitted on the premises after 21:00 hours. All children are to be accompanied by an adult at all times; and

(2)That the Sub-Committee had decided that the interim steps imposed on 14 April 2016 would remain in full force and effect until 21 days from the date of this decision or the determination of any appeal against it lodged within that period.

CHAIRMAN