

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 21 August 2012

**PRESENT:** Councillors John Robson (Chair), Nikki Sharpe, Neale Gibson and George Lindars-Hammond

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#### **1. APOLOGIES FOR ABSENCE**

1.1 No apologies for absence were received.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

#### **3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

#### **4. LICENSING ACT 2003 - LITTLE HANOI, 216/218 LONDON ROAD, SHEFFIELD S2 4LW**

4.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence made under Section 34 of the Licensing Act 2003, in respect of the premises known as Little Hanoi, 216/218 London Road, Sheffield, S2 4LW.

4.2 Present at the meeting were Chris Grunert (John Gaunt Solicitors, representing the Applicants), Paul Pham and Sued Sherazi (representing the Applicants), Bob Singh (Environmental Protection Service, Objector), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from the Environmental Protection Service and were attached at Appendix 'C' to the report.

4.5 Bob Singh stated that the premises were located in a mixed commercial and residential area and that the basis of his objections focused on the potential for public nuisance, particularly with regard to noise breakout. Mr Singh exhibited a plan of the premises, indicating that there was a potential for any residents living in close proximity, including any occupants of the first floor of the flats on either side of the premises, to be affected by noise breakout. He stated that there were two function rooms on the first floor,

one had already been renovated and the other presently being renovated. The capacity for the smaller room was approximately 10 people and 15 for the larger room. There were residential properties on either side of the premises, sharing party walls on the first floor. It was believed that one of these flats was presently occupied, with the other presently vacant, but with a potential for being occupied at any time. Mr Singh explained the present position in terms of the legislation regarding noise breakout and referred to a document received from John Burgoyne (Architectural Services), which contained details of an acoustic survey undertaken at the request of the applicants in terms of potential noise breakout in respect of the party walls. Mr Singh stressed that he was unable to validate this report on the basis that he had not been able to gain access and undertake his own investigations. In terms of complaints of noise nuisance in respect of the premises, he stated that the Service had received two complaints on 12th July 2012, and an enquiry on 16th July 2012, with one of the complaints referring to the extraction fan at the rear of the property.

- 4.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the applicant's representative, Mr Singh stated that the Environmental Protection Service was not in a position to comment on what level and type of insulation works would be required in order to minimise noise breakout from the premises as it had not been able to monitor the internal noise levels. Following the complaints received on 12th July 2012, the Service had contacted the applicants to request that action be taken regarding the noise breakout from the extraction fan. Mr Singh confirmed that no permission in terms of both planning and licensing had been granted for the use of the first floor. The complaints received on 12th July 2012 only referred to noise breakout from the extractor fan, which had been fitted approximately two weeks before this date. Only the flat to the right of the premises was occupied, with the flat to the left being currently empty, but having residential use and that there were approximately three other residential properties within the immediate vicinity of the premises. Whilst it was accepted that there were a number of other licensed premises in the area, together with background noise in terms of traffic movement, the Service still believed there was a potential for noise breakout in terms of the use of the first floor of the premises. Despite further works being undertaken following the complaint regarding noise nuisance in respect of the extractor fan, the complaint had still not been resolved. Mr Singh confirmed that to date, the Service had not contacted the owner of the occupied flat next to the premises to arrange access to monitor the noise levels. He stated that in a number of similar cases, owners or landlords of property would not co-operate with the Service and therefore, the Service would have to object to applications on the basis of a potential for noise breakout. Mr Singh had spoken to Jonathan Hyldon, John Gaunt, Solicitors, to discuss any alternative solutions in terms of the monitoring of noise breakout from the first floor of the premises. Whilst there were a number of other licensed premises on London Road, there had not been any need to gain access in order to monitor noise levels as they did not share party walls with adjoining residential properties.

- 4.7 Chris Grunert stated that the premises comprised an authentic Vietnamese restaurant on the ground floor, which attracted customers from both in and outside the City. The application to vary the Premises Licence focused predominantly on the provision of Karaoke, which was a very popular form of entertainment for people from East Asia. It was believed that the first floor of the premises had been used for regulated entertainment in the past, but it could not be confirmed whether it had been licensed or not. The applicants did not envisage any major problems in terms of noise breakout, and the only representations received to the application were received from the Environmental Protection Service. The applicants were happy to agree to three of the four amended conditions suggested by the Environmental Protection Service. In terms of the potential for noise breakout, it was stated that there were a number of other licensed premises in the area, as well as considerable background noise in terms of traffic movement. The flat to the left of the premises had not been occupied for the last ten years, although it was accepted that it could be occupied at any time. It could also not be confirmed that it was a bedroom that shared the party wall with the premises. In terms of the complaints of noise nuisance in respect of the extractor fan, the applicants had undertaken works to address this issue, although Mr Grunert was not aware that there was still a problem in respect of this. The insulation works identified by John Burgoyne (Architectural Services) could be sufficient to address the potential for noise breakout, although such works had not been validated by the Environmental Protection Service. The applicant had attempted to deal with the issues by talking to the Service.
- 4.8 In response to questions from Members of the Sub-Committee and Bob Singh, Mr Grunert confirmed that Karaoke was in operation at the premises, in the room renovated for that purpose, last Saturday. The ground floor of the premises was used for sit-down meals only and on the ground floor, there was a bar server area, where mainly snacks and drinks could be purchased. Customers having a sit-down meal in the restaurant would be able to book one of the function rooms upstairs, either at the time of booking or on the night, subject to availability. People would not be able to walk into the restaurant off the street and use one of the function rooms and the applicants would be happy to stipulate this as one of the conditions of the Premises Licence. Whilst that element of the application regarding extending the opening hours related predominantly to the use of the function rooms on the first floor, the applicants intended to extend the hours in terms of the sale of alcohol for the restaurant on the ground floor also. Mr Grunert confirmed that the element of the licence referring to off-sales had been included in error, and that the applicants were happy for this to be withdrawn. He was not able to confirm whether the first floor of any other licensed premises on London Road were used for regulated entertainment and/or the sale of alcohol. The first floor of the premises had been used as a function room in the past and had a late licence until 03:00 hours, but it was not the intention of the applicants to use the function rooms on this basis. It was hoped that through booking the function rooms for specific periods of time, there would not be any

congestion in terms of customers hanging around in the bar servery area. It was confirmed that in terms of the Chinese New Year, the terminal hour in terms of the sale of alcohol would be 02:00 hours and terminal hour in respect of the opening of the premises would be 02:30 hours. Mr Grunert concluded by confirming that the applicants had used an acoustics expert to undertake an inspection of the potential noise breakout.

- 4.9 RESOLVED: That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.10 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 4.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.12 RESOLVED: That the Sub-Committee agrees to grant the variation to the Premises Licence in respect of Little Hanoi, 216/218 London Road, Sheffield, S2 4LW, subject to the amended application, operating schedule, agreed conditions and the modified conditions now made as follows:-
- (a) Customers should not use the fire door upstairs to go out to smoke;
  - (b) There will be no access to the function rooms by customers who have not had a table meal downstairs; and
  - (c) Acoustic works be implemented to the specification proposed in the upstairs rooms.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the Notice of Determination.)