

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 9 May 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Vickie Priestley and Geoff Smith

.....

1. APOLOGIES FOR ABSENCE

1.1 There were no apologies for absence received. Councillor Ian Saunders attended the meeting as a reserve Member, but was not required to stay.

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 - LION'S LAIR, 31 BURGESS STREET, SHEFFIELD, S1 2HF

4.1 The Chief Licensing Officer submitted a report to consider an application, made under Section 34 of the Licensing Act 2003, to vary a Premises Licence in respect of the premises known as Lion's Lair, 31 Burgess Street, Sheffield, S1 2HF.

4.2 Present at the meeting were Charles Hall (Applicant), Jonathan Round (Environmental Protection Service), Councillor Jillian Creasy (on behalf of Patrick Carroll, Objector), Linda Cooley and Lynne Thomas (Objectors), Matt Proctor (Senior Licensing Officer), Louise Slater (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Louise Slater outlined the procedure which would be followed during the hearing.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that representations had been received from three local residents and the Environmental Protection Service, and were attached at Appendices 'C', 'D', 'E' and 'F' to the report, respectively. Two of the objectors attended the meeting and the third was represented by Councillor Jillian Creasy. Mr Proctor added that although the Environmental Protection Service had removed their objection prior to the original hearing of the application on 11th April 2013, the Sub-Committee had requested that an officer from that Service attends this hearing to respond to further questions on what had been proposed and agreed in terms of additional conditions.

- 4.5 Jonathan Round, Environmental Protection Service, confirmed that he had been requested to attend the hearing in order to provide clarification in terms of what conditions had been agreed between the Service and the applicant. Mr Round stated that there had been a history of complaints regarding noise nuisance at the premises, mainly relating to noise breakout from the rear fire door, affecting those local residents living to the rear of the premises. The former Designated Premises Supervisor (DPS) had made a number of structural alterations to the premises in an attempt to try and solve the problem caused by noise breakout. However, Mr Round did not consider that the fabric of the building was suitable for the playing of loud music, nor was it considered suitable for the outside beer garden to be used due to its close proximity to the local residents living to the rear of the premises. He confirmed that the applicant had agreed that the premises would close at 24:00 hours (Monday and Tuesday), the applicant had accepted the Service's proposed conditions regarding recorded music and that there would be strict limitations in terms of the use of the beer garden.
- 4.6 In response to questions from Members of the Sub-Committee, local residents and Councillor Creasy, in terms of what had been agreed between the Environmental Protection Service and the applicant prior to the hearing, Mr Round confirmed that the agreed times in terms of recorded music and sale by retail of alcohol would be 10:00 to 24:00 hours (Monday and Tuesday), 10:00 to 02:00 hours (Wednesday and Thursday) and 10:00 to 05:00 hours (Friday and Saturday), the premises would close at 05:00 hours (Friday and Saturday) and the use of the beer garden would be restricted to 24:00 hours every night of the week. The later opening hours on Wednesday and Thursday had been requested to allow some flexibility in terms of how the premises were managed in terms of organising special events. There was a facility available, known as a noise inhibitor, which can be fitted to doors but, as the rear door was a fire door, it would involve timers, and this would be more difficult, as well as more expensive. The Service could look at setting the noise limiter with the rear fire door open as a means of measuring the level of the noise breakout. In terms of the intervention by the Environmental Protection Service, Mr Round stated that the last communication held with residents in connection with the premises was in February/March 2013, and that no complaints of noise nuisance had been reported to the 101 service.
- 4.7 Lynne Thomas stated that the application would exacerbate the problems of noise nuisance in the City Centre caused by the late-night opening of a number of licenced premises in the area. She made specific reference to problems of noise nuisance caused by customers leaving the premises in the early hours of the morning, creating problems for those local residents living within the immediate vicinity of the premises.
- 4.8 Linda Cooley stated that she had been experiencing problems of noise nuisance for the past four years and that, although there had been some improvement, there was no evidence to show that the Environmental Protection Service would monitor and enforce the conditions they were proposing for the Premises Licence. Ms Cooley stated that the main problem

for her was the sound of the base beat of the music, which had resulted in her not being able to get to sleep, and on occasions, to have to move to another room in order to get some sleep. She referred to problems of noise breakout from customers using the beer garden, indicating that whilst there had been a reduction in noise levels during the past few months, residents had been affected by the noise created by people using this area, often beyond midnight. She pointed out that the situation had deteriorated during the past few weeks.

- 4.9 Councillor Jillian Creasy referred to the plan of the premises in the report, indicating that Mr Carroll's flat was directly behind the premises, and all windows in his flat faced the premises. She stated that, whilst accepting that the Sub-Committee was only considering licensing issues, under current planning guidelines, the premises would not be able to open past 00:30 hours as it was included in the '12.30 am closing zone'. Councillor Creasy referred to the two 'You Tube' clips submitted by Mr Carroll, indicating that whilst noise levels were not too high, they were at such a level to keep residents living nearby awake, particularly due to the time. She stated that she did not consider that the former landlord of the premises made a sufficient effort to take preventative measures in terms of the noise breakout, referring specifically to the cancellation of two out of three meetings arranged by Jonathan Round. Mr Carroll considered that no one should be able to use the beer garden after 22:00 hours, and that there should be further sound insulation measures undertaken to the premises to prevent noise breakout. Councillor Creasy concluded by stating that Mr Carroll and the other residents living within the immediate vicinity of the premises did not believe that the measures taken by the management of the premises had or would prevent noise breakout to their satisfaction.
- 4.10 Charles Hall stated that he had invested a considerable amount of money in the premises, and had suffered some financial losses due to the actions of the former business partner. Part of his investment had comprised money to refurbish the exterior of the premises and undertake noise attenuation measures within the premises. He had also hired a number of different Door Supervisors in an attempt to ensure no troublemakers were admitted to the premises. In terms of the 'You Tube' clips, Mr Hall stated that, whilst he accepted there was some noise caused by people in the beer garden, there was no music playing at the premises at night. He indicated that he wanted to work with the local residents to allay any concerns they had, as well as wishing to continue to work with the Police and the Environmental Protection Service. He indicated that he would be happy for the residents to have his contact details so that they could ring him when there were any problems. In an effort to limit noise breakout from the premises, Mr Hall indicated that he had removed two speakers and sound proofed the skylight. He also wanted to keep the rear door locked at all times, but was unable to as it was a fire door.
- 4.11 In response to questions from Members of the Sub-Committee and the local residents, Mr Hall stated that he would agree that the beer garden should not be used after 22:00 hours on Friday and Saturday, when the music tended to

be louder due to the events at the premises. He requested that the beer garden be used later from Sunday to Thursday, and during the summer months, as there would be no loud music played at these times. He confirmed that he had undertaken measures to soften the volume of the base beat of the music during the last six to eight weeks. The beer garden was not used after 24:00 hours, apart from when staff members used the area during a break or to smoke. He stated that there was a possibility that some of the noise nuisance had been caused by customers using the outside area of the Embrace nightclub nearby. Mr Hall confirmed that although he was a member of the Local Pub Watch, he had not attended any meetings. He also confirmed that he was not a Personal Licence Holder, all staff received a briefing from the premises management at the start of each night, there were usually three Door Supervisors working, with two located on the front doors and one on the side street, who patrolled the rear of the beer garden to prevent people accessing the premises from a passageway at the side. Mr Hall confirmed that he would be happy for the beer garden not to be used after 22:00 hours on those nights when music was being played. He considered that the volume of the music was no louder than at other similar sized bars in the City Centre. He pointed out that he was trying to change the focus of the bar, as well as its clientele, and was looking to introduce a different style of music, which would not be as loud as before. Although the former landlord of the premises had left in March/April 2012, Mr Hall stated that he did not make any immediate changes as he wanted to assess the operation of the premises first, prior to making any decisions. Whilst he could not be sure, Mr Hall considered that the only reason why local residents were experiencing problems of noise breakout, despite the noise attenuation measures undertaken, was due mainly to the type of music being played. Staff members went through the rear fire door to the beer garden after closing time as all the other doors were locked.

- 4.12 In response to a question from the Chair, Lynne Thomas confirmed that she was a member of the St Paul's Residents' Association, which was a fully constituted body.
- 4.13 RESOLVED: That the public and press and attendees involved in the application 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.
- 4.14 Louise Slater reported orally, giving legal advice on various aspects of the application.
- 4.15 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.16 RESOLVED: That the Sub-Committee agrees to vary the Premises Licence in respect of the Lion's Lair, 31 Burgess Street, Sheffield, S1 2HF, subject to the amended application, operating schedule and the agreed, modified and new

conditions now made, as follows:-

(a) Amendments to Annexe 2 – Conditions Consistent with the Operating Schedule

- (i) Condition 1 – Add the words ‘and attend regular meetings’.
- (ii) Condition 5 – Amend to read ‘No under 18’s allowed in the premises at any time’.
- (iii) Condition 6 – Remove.
- (iv) Condition 11 – Remove.
- (v) Condition 13 – Substituted by (A) Music should only be played within the building such that:-
 - (1) noise breakout from the building to the street, or rear outdoor area should not exceed the ambient* noise levels by more than 3 dB(A) when measured as a 15 minute L_{Aeq} ;
 - (2) noise breakout from the the building to the street or rear outdoor area should not exceed the ambient* noise levels in any octave band centre frequency by more than 3 dB when measured 15 minute L_{eq} ;

* Where ambient noise level is the L_{Aeq} 15 minutes in the absence of the specific noise source (breakout from the premises); and

 - (B) No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiter, setting of which shall be to the written satisfaction of the Environmental Protection Service;
- (vi) Condition 16 – Remove and replace with (A) the use of the outside area to the rear shall cease at midnight of every day of the week, and staff shall regularly check that the area is not being accessed (to replace existing Annexe 2 – Condition 16 – The use of the outside area to cease at – Sunday to Thursday 24:00 hours and Friday and Saturday 01:00 hours the following day); and
 - (B) Signs shall be put onto the rear fire door reminding patrons that the rear area is not in use after midnight and that the door should not be opened after midnight save for emergency purposes;

(All other conditions to remain as stated.)

(b) New Conditions

- (i) The hours in terms of recorded music and the sale by retail of alcohol shall be as follows:-

Monday and Tuesday – 10:00 to 24:00 hours

Wednesday and Thursday – 10:00 to 02:00 hours

Friday and Saturday – 10:00 to 05:00 hours

Sunday – 11:00 to 05:00 hours;

- (ii) The use of the beer garden to cease at 22:00 hours on any night when regulated entertainment is carried out; and

- (iii) The Premises Licence Holder or Designated Premises Supervisor to meet regularly with the St Paul's Residents' Association and the City Centre Residents' Action Group (CCRAG).

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