

Licensing Committee

Thursday 10 October 2013 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors John Robson (Chair), Jenny Armstrong, David Barker, Nikki Bond, Jillian Creasy, Roger Davison, Neale Gibson, Adam Hurst, George Lindars-Hammond, Denise Reaney, Nikki Sharpe, Clive Skelton (Deputy Chair), Stuart Wattam, Cliff Woodcraft and Joyce Wright

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday, or you can ring on telephone no. 2734552.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

Recording is allowed at Licensing Committee meetings under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact Harry Clarke on 0114 273 6183 or email harry.clarke@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
10 OCTOBER 2013**

Order of Business

- 1. Appointment of Chair and Deputy Chair of the Committee**
- 2. Welcome and Housekeeping Arrangements**
- 3. Apologies for Absence**
- 4. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 5. Declarations of Interest**
Members to declare any interests they have in the business to be considered at the meeting.
- 6. Minutes of Previous Meetings**
To approve the minutes of the meetings held on:-

12 August 2013
15 August 2013
19 August 2013
20 August 2013
30 August 2013
2 September 2013
3 September 2013
- 7. Licensing Act 2003 - Home Office Consultation - Personal Licences**
Report of the Chief Licensing Officer

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ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

New standards arrangements were introduced by the Localism Act 2011. The new regime made changes to the way that members' interests are registered and declared.

If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest** (DPI) relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in

land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or

- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously, and has been published on the Council's website as a downloadable document at -<http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests>

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

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Licensing Sub-Committee

Meeting held 12 August 2013

PRESENT: Councillors John Robson (Chair), Denise Reaney and Clive Skelton

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from Councillor Philip Wood. Councillor Nikki Bond attended as a reserve Member, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of one case relating to Hackney Carriage and Private Hire Licensing.

4.2 The licence holder in Case No.68/13 attended the hearing and addressed the Sub-Committee.

4.3 RESOLVED: That the case now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
68/13	Review of a Hackney Carriage and Private Hire Driver's Licence	Revoke the licence under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, by reason of the seriousness of the most recent conviction reported which is an offence of dishonesty, another reported offence, responses provided to questions raised at the hearing and the Sub-Committee's view that the licence holder is not a fit and proper person to hold a licence.

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SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 15 August 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), David Barker, Stuart Wattam and Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING - FOOTBALL - SHEFFIELD WEDNESDAY FOOTBALL CLUB - 111-113 LEPPINGS LANE

4.1 The Chief Licensing Officer submitted a report to consider an application, under the Local Government (Miscellaneous Provisions) Act 1982, for the grant of a Street Trading Consent (Football – Sheffield Wednesday Football Club – 111-113 Leppings Lane) (Case No. 48/13).

4.2 At the commencement of the hearing, the Deputy Chair advised that all parties had been invited to attend, and he stated that he would be exercising his discretion to vary the order and format of proceedings in the interests of affording the applicants a fair hearing and in order to take into account all relevant considerations. In this regard, the hearing was to be conducted in two parts. Part One would be open to the local business objectors, who would be invited to outline their objections, after which, such objections would be summarised and agreed by the objectors as a true record of their objections, and were provided to the applicants during Part Two of the hearing.

4.3 Present at Part One of the meeting were local business objectors, Andy Ruston (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.4 Carolyn Forster outlined the procedure which would be followed during the hearing.

- 4.5 Andy Ruston presented the report to the Sub-Committee and it was noted that representations to the application had been received from local business objectors, and were attached at Appendix 'E' to the report.
- 4.6 The local business objectors made representations and responded to questions from Members of, and the Solicitor to, the Sub-Committee. The local business objectors, having delivered their objections in private session, agreed the summary of objections for placing before the applicants during Part Two of the hearing.
- 4.7 At this stage in the proceedings, the meeting was closed to the local business objectors and subsequently opened to the applicants and other objectors.
- 4.8 Present for Part Two of the hearing were the applicants, John Jefferson (Security Industry Association, in support of the applicants), South Yorkshire Police, represented by Inspector Neil Mutch and Police Community Support Supervisor (PCSS) Daran Hill, John Rutherford (Sheffield Wednesday Football Club Stadium Operations Manager, Objector), Steve Lonnia (Chair of Safety Advisory Group, Objector), Andy Ruston (Senior Licensing Officer), Carolyn Foster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).
- 4.9 Carolyn Forster outlined the procedure which would be followed during the hearing, including details of the revised order and format as agreed by the Chair.
- 4.10 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from a further three groups/organisations, and were attached at Appendices "C", "D" and "F" to the report.
- 4.11 The applicants addressed the Sub-Committee, putting forward the reasons why they believed they should be granted the Street Trading Consent. They stated that in 25 years of trading, there had been no issues of concern known to them, including safety, personal conduct or disorder. They submitted that they were suitable applicants, and presented a petition to the Sub-Committee by way of support for their application. They also responded to questions from Members of, and the Solicitor to, the Sub-Committee, and the objectors.
- 4.12 The representative of the Safety Advisory Group addressed the Sub-Committee, stating the grounds of objection in relation to public safety and disorder, in so far as the siting of the applicants' unit presented a risk on what is a major exit route and being an area difficult to manage. The objection being pursuant to a review of football consents where food was being sold contrary to the impetus to "get fans away", that is managing crowds and public safety.
- 4.13 Inspector Neil Mutch, South Yorkshire Police, submitted that the subject application area presented one of the highest risk areas in terms of policing, particularly as fans from three stands discharged onto the apron area egress from the ground. It was submitted that whilst statistically, levels of disorder may not have been high, this was mainly due to the efforts to avoid such disorder. It was submitted that the subject application burger van delayed the removal of away fans from the immediate area, thus likely to represent a risk to the public in terms of public safety

and public disorder.

- 4.14 The PCSS involved in match day operations addressed the Sub-Committee regarding his extensive involvement in his micro-management of the conflicting business and parking concerns raised with him, which had involved extensive operational resource time.
- 4.15 The South Yorkshire Police representatives also responded to questions from Members of, and the Solicitor to, the Sub-Committee, and the applicants.
- 4.16 John Rutherford endorsed to the Sub-Committee the objections in respect of the substantial risks to the public in terms of public safety and public disorder. In this regard, SWFC had invested in a “high tech” CCTV system following post match consultations with both the Police and the Safety Advisory Group, following incidents of disorder. Mr Rutherford responded to questions from Members of, and the Solicitor to, the Sub-Committee, and the applicants.
- 4.17 The summary of objections, as agreed by the local business objectors in Part One of the hearing, was provided to the applicants, affording the applicants the opportunity to address such objections, together with those of the objectors present.
- 4.18 The applicants summarised the application, responding to the oral representations made by objectors during Parts One and Two of the hearing process, together with the oral support of John Jefferson, acknowledging the pacifist demeanour of the applicants.
- 4.19 Andy Ruston reported on the options open to the Sub-Committee.
- 4.20 **RESOLVED:** That the 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.
- 4.21 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.22 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.23 The Deputy Chair advised that in reaching its decision, the Sub-Committee confirmed that the decision was not a reflection on the applicants’ suitability to trade.
- 4.24 **RESOLVED:** That: (a) the application for a Street Trading Consent (Football – Sheffield Wednesday Football Club – 111-113 Leppings Lane) (Case No. 43/13) be refused on the grounds of:-
- (i) Public safety/highway in that the street trading activity represents, or is likely

to represent, a substantial risk to the public from the point of view of obstruction pursuant to paragraphs 2.8, 2.8.1 and 2.8.2 (a) of the Sheffield City Council published Street Trading Policy; and

- (ii) Public order in that the street trading activity represents, or is likely to represent, a risk to public order, and officers be instructed to find an agreed alternative site location, within the immediate vicinity of the Football Ground, for the applicants;
- (b) the designation in respect of a Street Trading Consent at Leppings Lane (Sheffield Wednesday Football Club) be removed; and
- (c) South Yorkshire Police and the Safety Advisory Group be requested to continue to liaise and reassess the dispersal plan for the football ground.

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

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 19 August 2013

PRESENT: Councillors Clive Skelton (Chair), Adam Hurst and George Lindars-Hammond

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1. APOLOGIES FOR ABSENCE

1.1 Apologies for absence were received from the Chair (Councillor John Robson) and Councillor Philip Wood.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No.69/13 did not attend the hearing.

4.3 The applicant in Case No.59/13 attended the hearing and addressed the Sub-Committee.

4.4 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
69/13	Application for a new Hackney Carriage Vehicle Licence	Defer consideration of the case, due to the applicant being unable to attend due to personal circumstances, to another date to be arranged with the applicant.
59/13	Application for a new Private Hire Vehicle Licence	Depart from the current Policy that an application for a new Vehicle Licence should not be approved where the vehicle is over 5 years old and issue

a licence for the normal term of 12 months, due to the Sub Committee being satisfied the vehicle is well maintained. The Sub -Committee decided to place a further condition on the licence; that the vehicle be presented for test three times per year, at a cost to the licensee, for the lifetime of the licence.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 20 August 2013

PRESENT: Councillors Clive Skelton (Chair), Neale Gibson and Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

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 - THE SPORTSMAN INN, 71 HARVEY CLOUGH ROAD, SHEFFIELD, S8 8PE

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 The Sportsman Inn, 71 Harvey Clough Road, Sheffield, S8 8PE.

4.2 Present at the meeting were John Coen and Tom McPeake (Ford and Warren, Solicitors, for the Applicants), Andrew Longley (Area Manager, Punch Taverns, Applicant), Danny Grayson (Pub Operator??), Jonathan Round (Environmental Protection Service, Objector), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Carolyn Forster 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 the Environmental Protection Service, and were attached at Appendix 'C' to the report.

4.5 Jonathan Round stated that his representations related predominantly to the potential for noise nuisance, particularly following the proposed structural alterations to the premises. He stated that the premises were surrounded by residential property, with the outside area sharing a boundary wall with residential premises and, as such, there was an enhanced potential for both licensed and unlicensed activity at the premises to give rise to complaints relating to public nuisance. Specific concerns were expressed with regard to the potential for excessive noise disturbance from loud, amplified music breaking out of the

building as a result of the fabric being severely compromised, and from the addition of amplified sound in external areas, in addition to increased noise from more customers in the outside area. Mr Round stated that as the license currently stood, there should be double-glazing to all the windows, as requested by Members at a meeting of the Licensing Board several years ago and that, on a visit made on 12th June 2013, it was found that only one room/side of the building had been upgraded to some form of secondary glazing and therefore, it was Mr Round's understanding that the premises should not be hosting live music events after 23:00 hours. He made reference to the proposals to introduce an opening in the side of the building, with no lobby, which he believed would allow internal noise to escape, both from regulated entertainment and from customers. He also made reference to concerns regarding the addition of amplified sound into the external areas, referring to the plans to screen live sporting events. In connection with this, he made specific reference to the fact that some games during the 2014 World Cup were not likely to finish by 23:00 hours. Mr Round stated that since 2010, six complaints of noise nuisance had been reported by local residents to the '101' number, which related to the karaoke, music and shouting from within the premises, and noise from customers drinking, and children playing, in the beer garden. Mr Round concluded by referring to a number of suggested conditions, which he believed would assist in minimising the potential for public nuisance.

- 4.6 During Jonathan Round's representations, and in response to a query by Carolyn Forster, it was confirmed that the glazing to the ground-floor windows was only secondary glazing, and not double-glazing.
- 4.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee, and the representative of the applicants, Mr Round stated that even if the windows in the snooker room were double-glazed, there would still be a requirement for the bi-folding doors to be closed when regulated entertainment was carried out at the premises. The last complaint of noise nuisance had been received on 6th July 2013, and related to karaoke and loud music from within the premises. Mr Round provided an explanation in terms of the effectiveness and differences regarding noise emanation relating to secondary and double-glazing. Officers from the Environmental Protection Service had not carried out any noise level checks, nor had they visited the premises, following the complaints, and witnessed any evidence of noise nuisance. Further to the complaints made to the '101' number, officers had visited the premises, but the music had been turned down or off. Mr Round could not confirm whether or not the secondary glazing in the premises was adequate to stop noise emanating, but had assumed that it wasn't based on the complaints received. The complaints of noise nuisance comprised six separate telephone calls to the '101' number, on different days, with three calls being received during nine day period during July 2010, which related to noise from the beer garden, and the other three being received in July 2013, and relating to noise from the karaoke and loud music at the premises. It was confirmed that there had been no complaints of noise nuisance in 2011 or 2012 and that officers from the Environmental Protection Service had not witnessed any evidence of noise nuisance themselves following the complaints in 2010 and 2013. In terms of the action taken following the complaints of noise nuisance, officers had called the complainants, but no action had been taken on the grounds that either the music had stopped or the complainants did not want a visit from an

officer as it was too late. It was also confirmed that, following the complaints, no direct action was taken, in terms of written or verbal warnings, against the premises. Whilst Mr Round conceded that the conditions he had suggested to deal with potential noise breakout could possibly be construed as an inaudibility condition, he stated that the intended measures were to stop the base beat rising above an acceptable level. He also conceded that there was already a condition on the Premises Licence relating to the requirement for a noise limiting device to be fitted to the sound system for the provision of regulated entertainment. Mr Round also accepted that there were no plans to have any external speakers. Following Mr Round's visit to the premises on 12th June 2013, it was not evident, and the staff were not aware, that there was a noise limiter fitted to the sound system. It was confirmed however, that the noise limiter was in the lounge. Mr Round could not confirm that an officer from the Environmental Protection Service had visited the premises to set the levels of the noise limiter. If the noise limiter was set to a specific level, this would stop noise emanating from the rear of the premises and, if there were any further complaints of noise nuisance, officers would consider re-adjusting the limiter's levels. There was a possibility that there would be an increase in noise emanation from the premises following the alterations to the structural wall from the lounge to the bar rooms.

4.8 John Coen put forward the case on behalf of the applicant, referring to the conditions in Annexes 2 and 3, and referring to the fact that a number of the measures proposed as additional conditions by the Environmental Protection Service were already included in the Annexes. Mr Coen stated that the planned refurbishment of the premises would cost approximately £310,000, which comprised a substantial investment from both the Premises Licence Holder and the Brewery. Danny Grayson, Premises Licence Holder (PLH), had operated a number of public houses in the area, and had an excellent reputation. His plans were to change the premises to a sports bar, similar to other premises in the area. It was proposed that the sales at the premises would comprise 70% wet and 30% dry and the plans for regulated entertainment related only to Saturday nights, from 21:00 to 24:00 hours. Mr Coen stressed that no representations had been made to the application from the Police or local residents, and that there were no plans to extend the opening hours or increase levels in terms of regulated entertainment. Mr Grayson was very aware of any adverse effects of noise nuisance on local residents, and would not wish to alienate his clientele, many of whom lived in the local area. Mr Coen concluded by commenting on the suggested conditions from the Environmental Protection Service, indicating that they were either not relevant to the application, disproportionate or that such measures were already in place, as highlighted in Annexes 2 and 3 of the Premises Licence.

4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Mr Coen stated that, as part of the application, there was no request for regulated entertainment in external areas, and that any background music would be required to cease at 23:00 hours. It was not anticipated that residents on Harvey Clough Road would suffer noise nuisance on the grounds that there was a large gap between the rear of the premises and the curtilages of properties on that road. If the residents were affected however, the Council could take a number of steps in connection with the Premises Licence. Customers were able to drink in the beer garden up to 23:00 hours. Mr Coen stated that the suggested condition

proposed by Mr Round, referring to the requirement to keep the bi-folding glazed doors closed during the provision of regulated entertainment and after 23:00 hours each day of the week, was very similar to the existing Condition 4 in Annexe 2. He confirmed that the rationale behind the request to remove Conditions 3 and 10 in Annexe 2 was due to the fact they were already covered by existing legislation and that he believed Condition 2 in Annexe 3 was a duplication.

- 4.10 John Coen summarised the applicant's case.
- 4.11 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.
- 4.12 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.14 RESOLVED: That the Sub-Committee (a) agrees to grant a variation to the Premises Licence in respect of The Sportsman Inn, 71 Harvey Clough Road, Sheffield, S8 8PE, in the terms now requested, and subject to:
- (i) the following amendments to Annexe 2 – Conditions consistent with the Operation Schedule, as follows:-
- Condition 3 – To be deleted;
 - Condition 4 – Amended to read “accept for access and egress, all windows and doors to remain closed when regulated entertainment is carried out;
 - Condition 10 – To be deleted; and

Annexe 3 – Conditions attached after a hearing by the Licensing Authority as follows:-

- Condition 1 – Amended to read “with the exception of the designated smoking area, the beer shall be closed at latest 23:00 hours every day;
- Condition 2 – To be deleted;
- Condition 5 – To be amended to read “there is to be no regulated entertainment provided within the beer garden”;
- Condition 6 – Double-glazing is to be installed to external windows in the trading area; and

- Condition 8 – To be deleted; and
- (ii) The addition of a new condition as follows:-
 - An officer from the Environmental Protection Service be requested to carry out noise level check at the nearest occupied premises during a performance of regulated entertainment within three months of the Premises Licence taking effect.

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

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SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 30 August 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Nikki Bond and George Lindars-Hammond

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

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 - TERMINUS TAVERN, 150A MAIN ROAD, SHEFFIELD, S9 5HQ

4.1 The Chief Licensing Officer submitted a report to consider objections in relation to an application for a Temporary Event Notice, under Section 104(2) of the Licensing Act 2003, in respect of the premises known as Terminus Tavern, 150a Main Road, Sheffield, S9 5HQ.

4.2 Present at the meeting were Tansy Bagshaw (Designated Premises Supervisor, Terminus Tavern), Tony Stubbs (in support of the Designated Premises Supervisor), Benita Mumby (South Yorkshire Police, Objector), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Carolyn Forster 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 an objection to the Temporary Event Notice had been submitted by South Yorkshire Police on 21st August 2013, and was attached at Appendix 'B' to the report.

4.5 Benita Mumby stated that the Police's objections were based on the protection of children from harm, with concerns being raised in connection with the children being allowed on the premises when arriving back from the day trip, and to remain on the premises late at night. Ms Mumby referred to the current conditions of the Premises Licence, relating specifically to the requirement for all children to be off the premises by 17:00 hours and stated that the Police, as well as the Sheffield Safeguarding Children Board, did not believe that there had been sufficient evidence to show that this condition was being complied with following the

condition being placed on the Premises Licence at a meeting of this Sub-Committee held on 2nd July 2013. She referred to events at the premises on 26th August 2013, when, after viewing the premises' CCTV, she had witnessed children on the premises, one in the bar area and one in the beer garden, between 17:00 and 17:43 hours. Whilst Ms Mumby accepted that, to some extent, Ms Bagshaw had genuinely not been aware of the time and had made efforts to request that the children were removed from the premises, she had witnessed parents with children being served at 16:55 hours, which would clearly not have left sufficient time for them to finish their drinks and take their children home by 17:00 hours. On two other occasions, since the condition had been placed on the Premises Licence, children had been seen on the premises, at 18:00 and 19:00 hours. In the light of these incidents, the Police were not confident that Ms Bagshaw was able to remove children from the premises by 17:00 hours

- 4.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Mumby stated that other licensed premises had conditions attached to their Premises Licences, requiring that there should be no children on the premises by a designated time. In terms of the Police's and the Sheffield Safeguarding Children Board's concerns regarding the unsuitability for children to be on the premises after 17:00 hours, reference was made to reports of drug abuse, the use of abusive language and the violent incidents which had occurred at the premises. Having a designated children's area would help to prevent the children from being exposed to any of these situations, but such an area had not yet been created. The incidents of children being witnessed at the premises occurred on 30th July 2013, when a child was seen walking out of the front door, and on 2nd August 2013, when two children had been witnessed in the beer garden. Further checks of the CCTV showed that children had also been seen in the bar area on 2nd August 2013. The revised Premises Licence, following the meeting of this Sub-Committee on 2nd July 2013, had become effective on 28th July 2013. Whilst it was accepted that there could have been issues in terms of staff training, the fact that there had been two breaches to the condition within days of the revised Premises Licence becoming effective gave the Police particular cause for concern.
- 4.7 Tansy Bagshaw referred to the incident where a child had been seen in the bar area in the premises on 2nd August 2013, indicating that the child had been told that they could use the toilet. She accepted that whilst the conditions of the Premises Licence had clearly been breached, it had not been done with any intention and she had tried to ensure that all children were off the premises by 17:00 hours. In terms of the Temporary Event Notice, Ms Bagshaw stated that she had originally intended to request that children be allowed on the premises up to 22:00 hours, but had been advised to state 00:00 hours to cover any eventualities.
- 4.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Bagshaw elaborated on the incident at the premises on 27th August 2013, when PC Gillian Parker and Benita Mumby visited the premises, indicating that, after implementing a number of measures as requested by Steve Pitts, Environmental Health, she believed that children were allowed in the beer garden. Mr Pitts subsequently informed PC Parker, during a telephone conversation, that this was not the case, and that he had made it clear to Ms Bagshaw, during his

visit, that this was the case. Ms Bagshaw stated that with further staff training, herself and other members of staff would be capable of adhering to the condition on the Premises Licence. In terms of the event at the premises on 26th August 2013, Ms Bagshaw stated that she had organised a charity event and that due to the level of activity at the premises, she had 'lost track' of the time. After realising what time it was, she and other members of staff made an effort to ensure that all children were taken away from the premises. Regarding the Temporary Event Notice, Ms Bagshaw stated that it was the intention that on returning from the day out, expected to be around 20:00 hours, people would have one or two drinks and use the toilet facilities, then leave shortly after that. The age of the children going on the day trip varied, with the eldest being around 12 years old. All the children would be accompanied by parents or carers. The only entertainment to be provided on the return from the day trip would be music played on a portable CD player. In connection with the Police's concerns regarding the management's ability to ensure all children were off the premises by 17:00 hours, relating specifically to the events on 26th August 2013, Ms Bagshaw stated that she and other members of staff had reminded parents that their children needed to be off the premises by 17:00 hours. She stated that, as people were having a good time, as well as the level of activity at the premises, she lost track of the time, but when she realised, staff started clearing up the play equipment straight away, which included the bouncy castle being deflated at 17:10 hours. Ms Bagshaw stated that she would remind everyone of the need for all children to be off the premises by 21:00 hours, both prior to setting off on the day trip and just prior to arriving back at the premises. She stated that she had been advised by an officer of the Licensing Section to state 00:00 hours on the application just in case they arrived late back, and to ensure that any conditions were not breached.

- 4.9 In her summary, Ms Bagshaw stated that she would be happy to reduce the timing in respect of the application from 00:00 hours to 21:30 hours, and warn people that all children had to be off the premises by 21:00 hours in order to provide 30 minutes leeway.
- 4.10 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.
- 4.11 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.13 RESOLVED: That the Sub-Committee agrees to acknowledge the Temporary Event Notice, allowing the event to go ahead on the proposed date, as per the application, subject to the following conditions:-
- (a) All children to be off the premises by 21:30 hours; and

(b) There shall be no regulated entertainment on return to the premises.

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

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 2 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), David Barker and Adam Hurst

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson). Councillor Philip Wood attended the meeting as a reserve Member, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 70/13 did not attend the hearing.

4.3 The applicant in Case No. 69/13 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
70/13	Application for a new Private Hire Vehicle Licence	Defer consideration of the application on the grounds that the applicant did not attend the hearing, and grant him one further opportunity to present his case.
69/13	Application for the grant of a new Hackney Carriage Vehicle Licence	Agree to grant a licence for the normal term of 12 months, with the application being treated as a renewal and not a new application, subject to the

applicant providing written proof of the insurance claim made in respect of the vehicle.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 3 September 2013

PRESENT: Councillors Clive Skelton (Deputy Chair), Neale Gibson and
Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from the Chair (Councillor John Robson).

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 - SPAR (FORMERLY BARGAIN BOOZE), 392-394 RICHMOND ROAD, SHEFFIELD, S13 8LZ

4.1 The Chief Licensing Officer submitted a report to consider an application made by Sheffield City Council Trading Standards, under Section 51 of the Licensing Act 2003, for a review of the Premises Licence in respect of the premises known as Spar (formerly Bargain Booze), 392-394 Richmond Road, Sheffield, S13 8LZ.

4.2 Present at the meeting were David Palmer (Trading Standards, Applicant), Thalib Hussain (Designated Premises Supervisor, Spar), Julie Hague (Sheffield Safeguarding Children Board), Sean Gibbons (Health Protection Service), Matt Proctor (Senior Licensing Officer), Kavita Ladva (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Kavita Ladva 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 the Sheffield Safeguarding Children Board and the Health Protection Service and were attached at Appendices 'B' and 'C' to the report. South Yorkshire Police had also indicated that they were fully supportive of the action being taken by Trading Standards, and whilst they had not made any formal representations, nor attended the hearing, they submitted a witness statement, which was contained in Appendix "A" to the report.

4.5 David Palmer reported that on 8th February 2013, the Police received a call from a member of the public, informing that he believed he may have been sold counterfeit vodka and on 9th February 2013, the Police visited the premises and seized a large quantity of Kommissar Vodka and Selekt Vodka. Samples of the drink were

passed to Trading Standards Officers, who examined the vodka on 11th February 2013, and carried out informal screen tests on the products. The ABV of both products was well below that declared and therefore, formal samples were taken and sent for analysis. The Selekt Vodka was found to contain industrial contaminants, including isopropanol, tertiary-butanol and chloroform, and had an Alcohol by Volume (ABV) of 24%. The Kommissar Vodka contained isopropanol and tertiary-butanol, and had an ABV of 22.2%. It was determined that neither product could legally be called vodka and the trade mark holders confirmed the products as being counterfeit. Mr Palmer stated that counterfeit and illicit spirits were known to contain dangerous industrial chemicals and other contaminants, and were made without the quality control measures employed by genuine brand manufacturers. Such products had no genuine batch codes or identification details of the actual manufacturer, which made traceability of the products impossible. Also, the ABV declared on the label was uncontrolled and often inaccurate. As a result, there was a risk to the public when consuming these products, particularly during binge drinking and even when being consumed more responsibly on a regular basis. He stated that children and young people were particularly at risk due to the likely effects of the illegal chemical content of such products and the consistency of the declared ABV. In terms of the visit to the premises by Trading Standards Officers, it was found that the illicit vodka was kept separately, behind the counter, whereas legitimate vodka was displayed on the gantry. The shop was selling two 35 cl bottles of the Kommissar Vodka for £8.00, which was less than the excise duty and VAT payable on the product. It was deemed that selling illicit vodka at below duty/VAT prices also created unfair competition for traders selling legally and responsibly. The licensee had admitted to purchasing the products from a non-legitimate source and had been unable to produce receipts or identify his supplier and as a result of this, he knew, or should have known that he was entering into an illegal activity. Mr Palmer stated that Thalib Hussain was prosecuted by Trading Standards, and he appeared at the Magistrates Court on 28th August 2013, pleading guilty to two offences. His total fine, including costs, was £582 and the Court ordered the seizure of 674 counterfeit bottles of vodka. Trading Standards Officers viewed Mr Hussain's actions as a deliberate act and considered that his actions were wrong in terms of both tax evasion and posing a risk to the health of those purchasing the counterfeit vodka.

- 4.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee, and Matt Proctor, Mr Palmer stated that whilst he was not qualified to report on what damage could be done to the health of those people drinking the vodka, he stated that the industrial contents of the drink were highly likely to have an adverse effect on their health. Whilst there were bottles of genuine vodka on the shelves in the premises, the counterfeit vodka was under the counter and in the storeroom at the rear of the premises. Mr Palmer was not able to comment on the selling methods of the counterfeit vodka, but indicated that some customers may have known that cheap vodka was available at the shop or that they would simply ask the shopkeeper whether they had any cheap spirits for sale. Mr Palmer confirmed that it was Thalib Hussain, Designated Premises Supervisor, who was prosecuted for the offence as he was in control of the shop when officers visited the premises. The fine imposed by the Magistrates Court was fairly representative of fines imposed for similar offences in Sheffield, but derisive compared to similar offences in other areas of the country. Whilst there was no proof to show that the

counterfeit vodka had been sold to young people, selling the vodka so cheap would make it attractive to, and at a price available to purchase by, young people and adults on low incomes, including benefit claimants. Mr Palmer confirmed that, after the tests carried out by Trading Standards Officers, the contents were typical of those usually found in suspected counterfeit vodka. He confirmed that this was the first time Trading Standards had prosecuted Mr Hussain and that the only other record of action taken against the premises related to a caution for Mr Hussain and Faisal Shahzad, Premises Licence Holder, following the sale of cigarettes to a minor. Mr Palmer stated that, in the opinion of Trading Standards Officers, Mr Hussain was the protagonist in terms of the actions which led to his prosecution in that he admitted that he had purchased the product from a non-legitimate source. The only evidence that the premises was located in a 'hot spot' area was based on the version of information by the Police. In terms of identifying the vodka as counterfeit, Mr Palmer stated that whilst the labels and the bottles appeared to be genuine, there were a number of signs that experienced Trading Standards Officers noticed. This was based on information provided by genuine manufacturers, in confidence, to Trading Standards.

- 4.7 Julie Hague put forward her representations on behalf of the Sheffield Safeguarding Children Board, referring to the dangers of counterfeit alcohol, referring specifically to an incident in 2012, when a Sheffield student suffered serious and concurring eye problems after drinking counterfeit vodka. She referred to the dangers caused by young people being attracted to premises selling counterfeit vodka on the basis that it was cheap, and many young people were able to afford it. Ms Hague stated that she visited the premises on 8th July 2013, and met with Mr Hussain to discuss what safeguarding systems were in place to prevent underage sales and whilst he was in possession of a Responsible Retailer pack, which had previously been provided to him by Trading Standards, she noted that training records had not been completed between 24th September 2010 and 10th May 2013, and that the refusals log contained a last entry dated February 2012. There was also evidence to suggest that the age verification scheme operated at the premises was neither robust or consistent and may have allowed children and young people to access alcohol through underage sales. Ms Hague stated that the premises was located in an area that had been identified by the Police as a 'hot spot' area, where underage drinking and associated anti-social behaviour took place, and that partnership work was currently being undertaken to set up a 'Community Alcohol Project' (CAP) to address this issue. All licensed premises in the area had been invited to participate in the CAP and future compliance with the Project criteria should assist Mr Hussain to improve operational standards with regard to preventing underage sales. During her discussions with Mr Hussain, he admitted that one of the reasons he was selling the counterfeit vodka was to compete with another licensed premises across the road which was also selling counterfeit vodka. Ms Hague concluded by stating that the activities at the premises represented a significant risk to the health of children and young people.
- 4.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Hague stated that, in terms of the identification of a 'hot spot' area, the Police analysed the number of complaints received regarding drinking and associated anti-social behaviour in any specific area, then if the level of complaints

are at a specific number, they then initiated a CAP. The Board did not consider it reasonable that there had been no further entries in the refusals log since the one dated February 2012, on the basis that calls had been received from the local secondary school, expressing concerns of underage drinking in the area. There were no details to show that the concerns related to a specific licensed premises in that area, so a representative of the Board visited all licensed premises to advise them of their responsibilities in terms of underage sales. There was no evidence to show that Mr Hussain had sold alcohol to under 18 year olds. Ms Hague accepted the fact that young people were able to access and drink alcohol in their own homes and whilst the Board had concerns regarding this, there was little or nothing it could do other than to continue educating young people on the dangers of drinking alcohol. Ms Hague stated that she had made attempts to contact and speak to Mr Shahzad, without success, and had always been given Mr Hussain's name as the person to deal with.

- 4.9 Sean Gibbons stated that he had visited the premises on 18th June 2013, and noted several concerns with regard to the electrical installations, and made arrangements for a further visit on 20th June 2013, to discuss the issues with Mr Hussain. He was informed that an electrical engineer had been employed to undertake the relevant works in order to provide a satisfactory Electrical Safety Certificate to ensure that the electrical installation was in a safe condition. It was agreed that the Certificate would be provided to the Health Protection Service no later than 10th July 2013. Mr Gibbons circulated photographs of the electrical installations which had caused such concerns. Following his visit, Mr Gibbons sent a letter to Mr Hussain and Mr Shahzad, expressing his concerns and reminding them of their requirement for the relevant works to be undertaken and to provide a satisfactory Electrical Safety Certificate at the earliest possible opportunity. It was also pointed out to them that he had not received the Certificate by the agreed date of 10th July 2013. Mr Gibbons made a further visit to the premises and as neither Mr Hussain or Mr Shahzad were present, he left a card and a telephone message for them to respond. Neither Mr Hussain or Mr Shahzad responded. On 26th July 2013, Mr Gibbons served Improvement Notices on Mr Hussain, Mr Shahzad and the occupier ???. Mr Gibbons made a further visit to the premises on 28th August 2013, and met Mr Hussain. Mr Hussain was still not able to produce an Electrical Safety Certificate, although there was some evidence that some of the required works had been undertaken. Mr Hussain was further requested to provide an Electrical Safety Certificate by 5th September 2013, in order to prove that the electrical installation was in a safe condition.
- 4.10 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Matt Proctor, Mr Gibbons referred to the photographs showing the areas of concern regarding the electrical installation at the premises, and confirming that there was a risk of both electrocution and fire, as well as confirming that the electrical works, prior to any recent upgrade, had not been undertaken by a competent electrician. He confirmed that the Improvement Notice served on 26th July 2013, contained a request for the production of an Electrical Safety Certificate. Mr Gibbons stated that his involvement with the premises had involved discussions with Mr Hussain only and that he had never met Mr Shahzad.
- 4.11 Thalib Hussain stated that he was responsible for purchasing stock for sale at the

premises, and would purchase stock from Bargain Booze or Bookers Cash and Carry. During one visit to the Cash and Carry, he was approached by someone who informed him that he had ordered a considerable amount of vodka and offered to sell him some, at cost price. The man informed Mr Hussain that he worked for NISA, and informed him that the vodka was NISA's own brand, with the NISA logo. On the basis that the offer appeared genuine, Mr Hussain agreed to purchase a number of bottles. Arrangements were made to sell the 35 cl bottles at £7.00 each and he stated that there was proof on the till to show this was the case. Mr Hussain stressed that he was not aware, at the time of agreeing to purchase the vodka, that it was counterfeit, and that he had received no complaints about the vodka until the complaint received on 8th February 2013. He stated that there was some of the vodka on one of the shelves in the premises, as well as a number of bottles in a box on the floor, ready to be put on the shelf. Mr Hussain stated that, when in Court, the prosecutor stated that the vodka was not as dangerous as first thought, and would only result in an upset stomach for someone drinking a large amount. He was also informed that if the contaminants had been more dangerous, he would have received a much higher fine than £200. He stated that he had worked in the shop for five years and apart from the caution he had received relating to the underage sale of cigarettes, there had been no other issues in terms of the operation of the premises. He stated that staff received regular training in terms of underage sales.

- 4.12 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Matt Proctor, David Palmer, Julie Hague and Sean Gibbons, Mr Hussain stated that Mr Shahzad had not been able to attend the hearing as he was not well. He stated that the current name of the premises was Spar, but was Bargain Booze at the time of the incident, and that Spar were aware of the prosecution. When purchasing stock at the Cash and Carry, Mr Hussain confirmed he would always receive an invoice which included a reference to VAT in terms of the purchase of alcohol. When purchasing the counterfeit vodka, he confirmed that he did not receive an invoice, but believed the person selling him the alcohol had already paid the VAT to NISA. The counterfeit vodka was added to the premises stock system, and marked at 20% VAT although Mr Hussain had not declared this. In terms of underage sales, it was stated that although training manuals were kept for staff members, they were not maintained or signed. There were two posters advertising Challenge 25, one behind the counter and one elsewhere on the premises. In terms of current staff training regarding underage sales, Mr Hussain stated that they used the training manuals provided by Sheffield Safeguarding Children Board, whereby staff members would read the guidance and test themselves at the end. There was no face to face training, other than Mr Hussain asking staff members questions on the guidance. He had not received any training documents or manuals from Spar. Mr Hussain stated that it was only himself who pleaded guilty at the Magistrates Court on 28th August 2013 and that Mr Shahzad was his brother-in-law, and that he had informed the Licensing Section that Mr Shahzad had moved from 34 to 28 St Ronan's Road. In terms of the reasoning behind the purchase of the counterfeit alcohol, Mr Hussain stated that he normally purchased alcohol direct from Bargain Booze or Bookers Cash and Carry, but as cheap alcohol was being sold by one of the other licensed premises in the area, he wanted to attract people to purchase alcohol from his shop. Mr Hussain confirmed that he and his wife were responsible for the day to day operation of the premises

and that whilst Mr Shahzad had a share in the business, he was not involved in the day to day operations. When purchasing the counterfeit vodka from the man at Bookers Cash and Carry, Mr Hussain believed that he was a genuine and responsible shopkeeper as he was registered as a member of the Cash and Carry. Whilst the man did not have any bottles of the vodka when Mr Hussain agreed to purchase it, the man later visited his shop and brought a bottle round. Mr Hussain stated that whilst he had a business card and telephone contact number for the electrical contractor undertaking the works at the premises, he was unable to recall his name or the company he worked for. The contractor had informed him that due to the level of works required, it would take some time to complete the works and therefore he would not be able to furnish him with an Electrical Safety Certificate until such works had been completed. Mr Hussain confirmed that he was not involved in any other businesses and that he had lost the franchise in respect of Bargain Booze around June/July 2013. He also confirmed that he was the sole trader in respect of the business, and was not working in partnership with Faisal Shahzad. He explained that the reason why Mr Shahzad had not attended the meeting requested by Julie Hague, on 14th June 2013, was due to the fact that the invitation had been sent to an incorrect address. He confirmed that he had never been involved in the operation of any other licensed premises. Mr Hussain accepted that he was not fully aware of the contents of the vodka, but believed the man offering it for sale was genuine, and he also stated that it was not possible to predict what type of vodka could be harmful or not. He stated that, during a meeting with Julie Hague on 8th July 2013, he could not recall saying that the shop across the road was selling cheap vodka, but recalled stating that the shop was selling cheap drink. Mr Hussain confirmed that the head office address for the business was the premises address.

- 4.13 Mr Hussain summarised his case, indicating that he had put the proper safeguards in place to ensure that this kind of incident would not happen again.
- 4.14 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.
- 4.15 Kavita Ladva reported orally, giving legal advice on various aspects of the application.
- 4.16 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.17 RESOLVED: That, in the light of the information contained in the report now submitted, the additional information now circulated and the representations now made, the Sub-Committee agrees to revoke the Premises Licence in respect of the premises known as Spar (formerly Bargain Booze), 392-394 Richmond Road, Sheffield, S13 8LZ, for the following reasons:-
- (a) Mr Hussain has admitted and has been convicted of serious criminal activity in relation to the purchase of illicit alcohol;

- (b) he has a complete disregard for the law and was prepared to breach the law wherever possible, including VAT evasion;
- (c) he has failed to demonstrate that the staff had full training in accordance with guidance and regulations and furthermore, had failed to keep adequate paper records for running his business;
- (d) he has failed to provide a valid Electrical Safety Certificate for his premises, despite repeated requests to do so; and
- (e) he has not shown any responsibility or remorse for his actions and thus, should not be allowed to have any involvement in the retail licensing trade.

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

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SHEFFIELD CITY COUNCIL Committee Report

Report of: Chief Licensing Officer, Head of Licensing

Date: 10th October 2013

Subject: **Home Office Consultation:**
Personal Alcohol Licences: Enabling Targeted, Local Alternatives

Author of Report: Claire Bower – 203 7751

Summary: The consultation seeks views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.

Recommendations: That Members consider carefully the details of the consultation document and make any relevant comments that they wish to be included in the formal Licensing Authority response.

Background Papers: The Home Office consultation document and impact assessment papers are available at:
<https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>

Category of Report: OPEN

**LICENSING ACT 2003
HOME OFFICE CONSULTATION – Proposal to Abolish Personal Licences**

1.0 PURPOSE AND OUTCOMES

- 1.1 The purpose of this report is to inform Members of a consultation paper that has been released by the Home Office, to consult with Members regarding new proposals and obtain comments for the Licensing Authority's formal response.
- 1.2 The full consultation document and impact assessment papers are available at <https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>. Due to the amount of literature, the documents have not been attached to the report.
- 1.3 The outcomes of this report are to ensure that Members are aware of the content of the consultation paper and to allow Members the opportunity to input their comments into the Licensing Authority's formal response.

2.0 WHAT DOES THIS MEAN FOR THE PEOPLE OF SHEFFIELD

- 2.1 The Home Office objective is to reduce regulation on business.
- 2.2 If the proposals in the document are introduced, in the opinion of officers, they would undermine some of the priorities, values and outcomes in "Standing up for Sheffield: Corporate Plan 2011-14" for example:-

Priorities

- **Supporting and protecting communities**
There is a danger of reducing the level of social responsibility when it comes to the sale of alcohol due to the reduction of trained workers in the licensed trade.
- **Focusing on jobs**
The personal licence provides individuals with a professional qualification that could assist them in gaining employment in the licensed sector in these austere times.
- **Business friendly**
The proposal provides no evidence to say that the current system of personal licences is not 'business friendly'. These licences are personal to an individual and it is unusual for a company to apply for them on an employee's behalf.

Values

- **Long term view**
We believe the proposal is not the right thing to do in the long term for the people of Sheffield from a social impact perspective. We believe that anyone employed in the licensed trade should have knowledge of the legislation they are working with.

- **Prevention**
The proposals will not assist in preventing problems arising in the first place.

Outcomes

- **A strong competitive economy**
The current system for personal licences provides individuals with training in licensing legislation thereby improving employment chances and providing a higher skilled workforce in the licensed sector.
- **Safe and secure communities**
The current system provides a higher degree of social responsibility thereby improving safety in the communities of Sheffield.

3.0 BACKGROUND

- 3.1 In its consultation at the beginning of the year, the Government committed to cutting red tape for businesses without undermining important safeguards against alcohol-related harm.
- 3.2 One of the Governments suggestions at the time was to abolish the requirement to renew personal licences and following the consultation, they committed to do this.
- 3.3 The current consultation is a step further proposing to abolish personal licences altogether.

4.0 CONSULTATION

- 4.1 A draft response to the consultation is attached at Appendix "A".
- 4.2 The draft response is for Members to add further comment, or to consider removing anything they are not in agreement with.
- 4.3 The closing date for comments to the consultation paper is 7th November, 2013.

5.0 AFTER THE CONSULTATION

- 5.1 Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

6.0 FINANCIAL IMPLICATIONS

- 6.1 The forecast financial implications of each proposal have been published in the consultation impact assessments alongside the consultation.

7.0 RECOMMENDATIONS

- 7.1 That Members consider carefully the details of the consultation document and make any relevant comments that they wish to be included in the response.
- 7.2 That Members make amendments or additions to the draft response to the Government consultation.

Claire Bower
Principal Licensing Officer

September 2013

HOME OFFICE CONSULTATION

**Personal Alcohol Licences:
Enabling Targeted, Local Alternatives**

DRAFT - Licensing Authority Response

Question 1:

Do you think the Government's proposal would reduce burdens, in terms of time and/or money, on business, including small and medium enterprises?

Yes

No

D/K

Question 2:

Do you think this proposal would undermine the licensing objectives? The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance; and protecting children from harm.

Yes

No

D/K

Question 3:

Do you think nationally accredited training courses for those authorising alcohol sales are necessary to help licensing authorities promote the licensing objectives?

Yes

No

D/K

Question 4:

Do you think a statutory list of relevant offences, such as theft or handling stolen goods, is necessary to help licensing authorities promote the licensing objectives?

Yes

No

D/K

Question 5:

For what proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?

<10%

25%

50%

75%

>90%

Question 6:

For what proportion of premises in your area do you think conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?

<10%

25%

50%

75%

>90%

Question 7:

Below, please provide evidence to support the answers you've given, making clear to which question the evidence refers.

Q1: Time and/or money burdens for businesses -

In our experience, the majority of personal licences are applied for by the individual rather than the employing company on their behalf; therefore, the money and/or time burdens on *businesses*, in our opinion, are negligible.

The criminal record check takes 2 weeks for a correctly completed application with no further enquiries from Disclosure Scotland.

The training is generally held over a single day or can be accessed by e-learning and gives the applicant an understanding of the legal and social responsibilities of a personal licence holder.

The three application forms are necessary but two of them could be simplified. There is no reason to have two separate forms with such detail to apply for the licence itself. The prescribed forms could be amended in order to streamline the process further for the applicant. For example, there is no reason to state on the application form what type of licensing qualification has been gained with the date and issuing body as the certificate must be enclosed with the application. Further, why does the disclosure and criminal convictions form need to be a separate form? The information could be included in the main application.

Once the application form is submitted, Sheffield City Council has a target to issue personal licences (where there are no relevant offences or other problems) within 4 working days of being received. They are usually issued before the 4 day target.

To conclude, in terms of time burdens on individuals applying for a personal licence, we feel the time burdens are acceptable for one of the only well-established, nationally accredited professional qualifications and certificates for the pub trade.

We have no anecdotal evidence of applicants either objecting to the process or complaining of the timescales and/or costs of the same. Furthermore, the fee or the timescales are not seen as a problem by either applicant or prospective employer.

General opinion of prospective employers informally canvassed by this authority is that when considering an applicant for a post, the possession of a personal licence gives a reassurance of at least a basic level of knowledge and/or experience in the trade. This in turn reduces initial training costs and time for the business.

As an aside to this section, in the impact assessment, your statistics state a downward trend in those applying for personal licences, however, the data is 3 years old. Our records show that personal licences applications were at their lowest for the period 2008-2009 but have shown an increase year-on-year since then.

The impact assessment further states that the low level of applications may reflect the economic conditions. The personal licence provides individuals with a professional qualification to assist them in gaining employment in the licensed sector which may explain why we have seen a rise in applications.

If the application procedure was particularly burdensome for any party, we do not believe we would be seeing this increase.

Q2: Proposal undermining the licensing objectives -

The personal licence provides licensing industry workers with a consistent, professionally recognised, qualification based certificate. It delivers workers that are new to the industry the only professional training on the legislation they are working with and the knowledge of the licensing objectives.

There is no evidence to say that abolishing the system will improve responsible retailing in the sector so how can it be said that the licensing objectives would not be undermined?

In our opinion, the proposal *would* undermine the licensing objectives by removing the key safeguards of education and criminal vetting for workers moving around the industry.

Q3: Nationally accredited training courses necessary to promote the licensing objectives -

The training is necessary to promote the licensing objectives. Any individual working in the licensed trade should be aware of the legislation they are working with and the social responsibilities placed upon them.

Whilst ignorance of the legislation or objectives cannot generally be used as a defence, we have seen instances of the same being used in other spheres of licensing, most notably in the hackney carriage / private hire trade. The lack of knowledge of sitting Magistrates, or more importantly the advising clerks has seen a less than robust approach to dealing with offenders, resulting in a dilution of the deterrent effect of legal action.

A well-structured, nationally recognised qualification gives all incumbents a base level of knowledge from which they should be able to develop their careers. It also gives authorities and consumers a safe and certain knowledge that an individual is aware of the significant social responsibilities commensurate with their position.

Q4: Statutory list of relevant offences necessary to help licensing authorities promote the licensing objectives -

We believe the statutory list of relevant offences is necessary and furthermore should be extended. The licensing authority should be given a discretion to consider offences outside of the list where it can adequately demonstrate its reasons for doing so in line with the licensing objectives.

We have come across a situation where an applicant has had a relevant conviction for “possession of class ‘A’ drugs with intent to supply”, and was refused a personal licence some years ago. More recently the same individual made a new application showing that the supply conviction was now spent under the Rehabilitation of Offenders Act.

However, during the intervening period between applications, further convictions / cautions had been accrued for simple personal use possession offences. These further offences could not be considered directly as they are not classed as relevant. They do however demonstrate a continued involvement in the illegal drug scene, and, it could also be argued, an increased awareness of the limits for personal use and / or tactics to avoid detection.

If an application is objected to, it engages the discretion of the Licensing Committee giving an opportunity to investigate the circumstances further: - the circumstances behind the conviction; how much time has elapsed since the conviction; an indication of an applicant’s desire to promote the licensing objectives.

Q5: Proportion of premises requiring nationally accredited training would be appropriate?

Initial estimates are that accredited training would be appropriate for the majority of premises in Sheffield that sell alcohol.

Q6: Proportion of premises with conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?

Again, initial estimates suggest criminal records declarations would be appropriate for the majority of designated premises supervisors.

Question 8:

Is there anything else you think the Government should consider?

The Government could consider giving additional powers to licensing authorities with regards to personal licences.

There have been very few instances of the courts taking action over personal licence holders. In our experience, we have found that personal licence holders either do not notify the courts that they hold a licence or, the courts are unaware of their powers.

Powers to revoke or suspend personal licences should be devolved to licensing authorities, who should apply a policy to decide upon referral criteria, which may be nationally or locally agreed.

There should still be a statutory right of appeal to a Magistrates Court. Costs should only be awarded in exceptional circumstances, for instance where a decision is clearly unreasonable or illegal. This would ensure that licensing authorities do not shy away from making difficult decisions for fear of costs being awarded against it. *See Bradford Metropolitan District Council v Booth (2000)*.

Additionally, the Government could consider improving guidelines in relation to the legal role and responsibilities of a designated premises supervisor rather than just being referred to in guidance.