

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 20 August 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 - 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 former Licensing Board several years ago and that, on a visit made on 12<sup>th</sup> June 2013, it was found that only one room/side of the building had been upgraded to some form of secondary glazing. It was therefore 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, relating to the karaoke, loud 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 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 6<sup>th</sup> 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 witnessed any evidence of noise nuisance when visiting the premises. Further to the complaints received, 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 a nine day period during July 2010, and relating to noise from the beer garden (with a further complaint being received in 2010), and the other two being received in April and 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, albeit a letter, dated 18<sup>th</sup> July, 2013, was sent to 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 of the music 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 12<sup>th</sup> June 2013, it had not been evident, and the staff had not been 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, Pub Operator, 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 them as many of whom were regulars in the pub. Mr Coen concluded by commenting on the suggested conditions from the Environmental Protection Service, indicating that they were either not relevant to the application, with the applicant's statutory entitlement pursuant to the Live Music Act 2012, 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 approval of the alterations to the premises, as particularised in the drawings deposited with the Licensing Authority (Drawing No. 1735-60) and, in summary, comprising:-
- (A) Entrance from garden area amended from bar area;
  - (B) Structural wall from lounge to bar rooms cut back to give open space;
  - (C) Kitchen and ladies toilet positions swapped over and door arrangement changed;
  - (D) Removal of fixed seating to bar area and introduction of new booths in lieu; and
  - (E) Garden area extended to provide a larger seating area externally;
- (ii) amendments to Annexe 2 – Conditions consistent with the Operating Schedule, as follows:-
- Condition 3 – To be deleted;
  - Condition 4 – Amended to read “Except for access and egress, all windows and doors to remain closed when regulated entertainment is carried out”;
  - Condition 10 – To be deleted;
- (iii) 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 garden 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 – To be amended to read “Double-glazing is to be installed to external windows in the trading area”; and
  - Condition 8 – To be deleted; and
- (iv) the addition of a new condition as follows:-
- A dedicated member of staff shall be responsible for the

outside area and make regular checks to ensure customers and equipment are not causing a noise nuisance to residents;  
and

(b) further recommends that an officer from the Environmental Protection Service should carry out a 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.)