

**SHEFFIELD CITY COUNCIL**

**Licensing Sub-Committee**

**Meeting held 28 November 2013**

**PRESENT:** Councillors Clive Skelton (Chair), Neale Gibson and Jillian Creasy

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**1. APOLOGIES FOR ABSENCE**

1.1 No apologies for absence were received.

**2. EXCLUSION OF PUBLIC AND PRESS**

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

**3. DECLARATIONS OF INTEREST**

3.1 Councillor Neale Gibson declared a personal interest in agenda item 5 (Licensing Act 2003 – Fancie Canteen and Deli, 359-361 Ecclesall Road, Sheffield, S11 8PF) as he was familiar with the applicant through his business dealings. Councillor Gibson stated that his familiarity with the applicant was not sufficient to prevent him from taking part in the hearing.

**4. LICENSING ACT 2003 - FANCIE CANTEEN AND DELI, 359-361 ECCLESALL ROAD, SHEFFIELD, S11 8PF**

4.1 The Chief Licensing Officer submitted a report to consider an application for a premises licence, made under Section 17 of the Licensing Act 2003, in respect of the premises known as Fancie Canteen and Deli, 359-361 Ecclesall Road, Sheffield, S11 8PF.

4.2 Present at the meeting were Christopher Grunert (John Gaunt and Co, Solicitors, for the Applicant), Amanda Perry (Applicant, FC & Co. Ltd), Deborah Hall (General Manager, FC & Co Ltd), Peter McGuinness (Objector), Sean Gibbons (Health Protection Service, Objector), Jon Round (Environmental Protection Service, Objector), Matt Proctor (Senior Licensing Officer), Louise Slater (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

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

4.4 In the light of recent correspondence in connection with the application and, at the request of the Chair, the applicant's representative clarified the present position in this regard.

4.5 Matt Proctor presented the report to the Sub-Committee and it was noted that representations had been received from the landlord of a

nearby property and the Environmental Protection Service, and were attached at Appendices 'B' and 'D' to the report. He added that the representations made by the Health Protection Service had been withdrawn following agreement to conditions by the applicant.

- 4.6 Although the representations of the Health Protection Service had been withdrawn, in response to questions regarding clarification, Sean Gibbons stated that the request made by the Service for the applicant to install a food hoist at the premises was mainly due to the design of the building, specifically the narrow and steep staircase, and the potential for conflict and accidents between staff and customers in terms of carrying food to the first floor. It had also been determined that the consumption of alcohol could potentially increase this risk. The installation of the hoist would only result in the loss of a small area of the premises, and would not result in the loss of any seating capacity.
- 4.7 Jon Round, Environmental Protection Service, stated that his concerns focused on noise nuisance and cooking odours. In terms of the potential for noise nuisance, he stated that the upper floor of the premises shared a party wall with residential accommodation and the proposed increase in the opening hours could result in the tenant of this property being affected by noise generated by customers and by staff and customers going up and down the stairs. He also made reference to the first floor terrace which overlooked neighbouring residential external space, indicating that there would be an enhanced potential for increased, prolonged activity at the premises, which would give rise to complaints regarding public nuisance. He did accept that the 21:00 hour curfew in terms of the use of the first floor terrace, as now offered by the applicants, would go some way to alleviate this problem. Mr Round referred to the acoustic report provided by the applicants, indicating that, in his opinion, the findings of the report did not go far enough so as to make him feel confident that neighbours living in nearby accommodation, particularly the tenant of the flat adjoining the premises, would not be affected by noise nuisance from the premises. In terms of the issues regarding cooking odours, he considered the present method of getting rid of such odours, which included doors and windows being left open for most of the day, was not sufficient, but indicated that he was confident that the requirement to install an appropriate fume extraction system, which would be dealt with as part of the planning permission, would help to alleviate this problem.
- 4.8 In response to questions from Members of the Sub-Committee, Mr Round confirmed that he would still be requiring the applicants to implement necessary sound insulation measures to address the issues now raised on the basis that the findings of the acoustic report did not provide the necessary evidence to show that residents in neighbouring properties and the tenant of the flat adjoining the premises would not be affected by noise nuisance from the premises.

The measurements, as part of the acoustic survey, had been taken in the living room of the adjoining flat and, following information received from the resident of the flat, and on inspection of the plans, it appeared that it was the bedroom that shared the party wall with the first floor of the premises. There had been no problems of noise breakout at the rear and front of the premises. Mr Grunert highlighted the layout of the premises, pointing out the terrace area and stated that any issues of noise nuisance should be addressed by the condition limiting the use of this area after 21:00 hours. There was a potential for noise nuisance in connection with the fume extraction system required at the premises, but it was hoped that it would be installed in such a way as to minimise any potential problems. Mr Round did not envisage any problems in connection with the music to be played on the premises, as it would only be background music. No objections had been received from the owners of the flat next door to the premises following the licence application, but they had made representations in connection with the planning application. Mr Round confirmed that the Council had not received any complaints of noise nuisance in connection with the events held during October and November 2013 at the premises, under the Temporary Event Notices, nor had any complaints of noise nuisance been received since the premises commenced operating approximately 12 months ago.

- 4.9 Peter McGuinness stated that the property he owned was directly opposite the rear of the premises and expressed concerns in terms of a potential increase in noise nuisance and general disturbance if the application was granted. He accepted that some of his concerns would be alleviated if the stated conditions were placed on the licence and adhered to. Mr McGuinness stated that there had been problems with regard to rubbish overflowing from the bins to the rear of the premises, as well as smell and noise nuisance emanating from the kitchen door, which was left open constantly, and that extending the opening hours would only exacerbate such problems. He stressed that whilst the issues raised had not caused major disturbance in the area, he was concerned at the potential for problems in the future.
- 4.10 In response to questions from Members of the Sub-Committee and the applicant's representative, Mr McGuinness stated that whilst he was supportive of the applicant's plans and wanted any conditions to be placed on the licence to be proportional and realistic, he wanted the Council to be mindful of the potential for further problems, particularly in the light of the number of licensed premises in the Ecclesall Road area. The waste bins were located outside the kitchen door, to the rear of the premises, a very short distance away from Mr McGuinness's property, and there had been problems caused by the bins being left open, and rubbish falling out and blowing over the surrounding area. If the hours of operation were increased, this would result in an increase in food and drink waste, which could exacerbate the problem. Mr McGuinness had only received one complaint from one of the tenants of the property during the events held under the

Temporary Events Notices in October and November 2013, which referred to noise nuisance as a result of waste being thrown in the bins outside. The tenants of the property comprised two students, a young professional and a girl in employment. A number of licensed premises on Ecclesall Road had walled or fenced off their bin stores, which not only provided a buffer in terms of noise nuisance, but kept them out of the view of the public which lessened the opportunity of people throwing rubbish in or around the bins or taking rubbish out and spreading it round the area. Mr McGuinness confirmed that there had been no vandalism to his property, but he would often find bottles, food and waste products on the driveway. He could not provide any evidence to show that such waste was attributed to the premises. As stated earlier, he had only received one complaint from one of his tenants regarding noise nuisance, relating to waste from the premises being emptied into the bins outside.

- 4.11 Chris Grunert, on behalf of the applicant, stated that the application had been made to compliment the current business operation, and it was believed that the application would have a limited adverse effect on the licensing objectives. The applicant wished to provide an increased range of products, and would continue to offer high quality products and the application would involve only a modest change to the current operation. In terms of the supply of alcohol, it was planned that last drinks would be served at 23:00 hours, and the premises would close at 23:30 hours. In terms of the concerns regarding noise nuisance, it was not expected that there would be a constant flow of customers and staff going up and down the stairs. The applicant had commissioned the acoustic survey in response to the representations made by the Environmental Protection Service and Development Services, and the company who undertook the work had been recommended by the Council. It was the applicant's view that the information contained in the report was reliable. Mr Grunert stated that there was very little evidence to show that the application would have an adverse effect on the promotion of the licensing objectives, and that the representations now made referred mainly to fears and concerns regarding potential adverse effects. Mr Grunert offered a further condition to the extent that bottles would not be emptied into the waste bins between 22:00 and 08:00 hours, daily. He concluded by stating that there had only been one objection raised to the application from a member of the public, referring to the fact that no objections had been received from the Ecclesall Road Residents' Group, who were usually very reactive in terms of such applications.
- 4.12 In response to questions from Members of the Sub-Committee, Mr Grunert stated that the first floor of the premises would primarily be operated in a restaurant-style and, although the applicant would have the option of moving tables and operating the area in a vertical drinking-style arrangement, it was not envisaged that this would happen. A waiter service would mostly be used in terms of the sale of alcohol, but customers would also be able to purchase drinks from the

bar. There were no plans to have any door supervisors at the premises. Mr Grunert confirmed that there were toilets on the ground floor, with disabled access, and that a Premises Licence Holder would be on the premises for the majority of the time they were open.

- 4.13 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.14 Louise Slater reported orally, giving legal advice on various aspects of the application.
- 4.15 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.16 RESOLVED: That:-
- (a) the Sub-Committee agrees to grant a Premises Licence in respect of Fancie Canteen and Deli, 359-361 Ecclesall Road, Sheffield, S11 8PF, subject to the amended application, operating schedule, agreed conditions and the additional conditions as follows:-
    - (i) the collection and disposing of bottles and/or glasses to the outside bin will not take place between 21:00 and 08:00 hours, seven days a week; and
    - (ii) the Challenge 21 Scheme will be implemented at the premises; and
  - (b) the Chair be requested to write to the Chair of the Planning and Highways Committee requesting that the Committee considers, in detail, the concerns raised by the Environmental Protection Service and the local resident in terms of noise nuisance, as part of the planning application.

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