

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 26 October 2015

PRESENT: Councillors David Barker (Chair), Josie Paszek and Denise Reaney

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1. APOLOGIES FOR ABSENCE

- 1.1 No apologies for absence were received. Councillor Dianne Hurst attended the meeting as a reserve Member, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

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

3. DECLARATIONS OF INTEREST

- 3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - REFLEX/FLARES, 18 HOLLY STREET, SHEFFIELD, S1 2GT

- 4.1 The Chief Licensing Officer submitted a report to consider an application made under Section 34 of the Licensing Act 2003 to vary a Premises Licence, in respect of the premises known as Reflex/Flares, 18 Holly Street, Sheffield, S1 2GT.

- 4.2 Present at the meeting were Clare Eames (Poppleston Allen, Solicitors, for the Applicants), Andrew Graham (Manager, Reflex/Flares), Jonathon Guest (Area Manager, Reflex/Flares), Councillor Rob Murphy and Sona Mehra (Objectors), Neal Pates (Environmental Protection Service), Emma Rhodes (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

- 4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

- 4.4 Emma Rhodes presented the report to the Sub-Committee and it was noted that representations had been received from three local residents and a local Councillor, and were attached at Appendix 'C' to the report. It was further noted that representations from the Environmental Protection Service had been withdrawn following discussions with the applicants and the amendment of their application and operating schedule. Councillor Rob Murphy and one of the local residents attended the meeting to make representations. Neal Pates attended the meeting to explain the actions of the

Environmental Protection Service and to respond to any questions raised.

- 4.5 Neal Pates stated that he had originally raised objections to the application on the grounds that he was concerned that extending the opening hours every day of the week and on a large number of special dates would have an adverse impact on the quality of life of local residents living within the vicinity of the premises, including both noise breakout from the premises and noise in the streets from people and vehicles associated with the night-time economy. He also indicated that he was mindful of the opening hours of other licensed premises in the area. Mr Pates confirmed that he was happy with the outcome of his discussions with the applicant's solicitor, which he considered was a reasonable compromise. He concluded by stating that the Environmental Protection Service (EPS) received a number of complaints of noise nuisance relating to licensed premises in the City Centre, but very few related to Reflex/Flares.
- 4.6 In response to questions from Members of the Sub-Committee, Mr Pates stated that, although there appeared to be some confusion in terms of the nature of those complaints received regarding the premises in 2009, the Service had received complaints regarding litter and broken glass outside the premises, with no complaints regarding noise nuisance having been received in the last few years. The reference on the premises' existing Premises Licence to the sale by retail of alcohol for consumption both on and off the premises was a historic reference on the Licence and it was confirmed that drinks were not allowed to be taken outside the premises, nor were any customers allowed to purchase alcohol from the premises to take home. There were venues in and around West Street which attracted more complaints of noise nuisance from residents and, ideally, the EPS would like to see a limit in terms of opening times as any further extensions were likely to result in an increase in complaints of noise nuisance.
- 4.7 Sona Mehra stated that she had lived in her apartment, with her husband and two children, for six years and that when she first moved there, although the majority of venues in the area were in existence, they closed earlier. Ms Mehra stated that both her and her husband worked and often had to be up around 05:30 hours, and that if this application was granted, it would result in the quiet time, when they were able to sleep, being reduced even further. She was particularly concerned as there appeared to be no consideration given by the Council to the quality of life of those residents living in this area of the City Centre, both with regard to opening hours and the number of venues. There were six licensed premises within the immediate vicinity of where she lived, which resulted in residents suffering noise nuisance in terms of breakout from the premises and from people leaving the venues. She stated that each time an application to extend opening times was granted, this resulted in the quiet time –

from when the venues closed and everyone had gone home, to when the Supertram started running and the City Centre cleaning operation commenced – being reduced. Ms Mehra made specific reference to the fact that her eldest daughter was studying for her GCSEs, and she was concerned that her ability to study and revise for her exams in 2016 could be affected by the noise nuisance. She also stated that, as a result of the noise, the family had to close all their windows in summer, and were forced to use a fan. They also had to close the curtains in all their rooms, and were not able to use their balcony in order to protect their children from witnessing the regular anti-social behaviour on West Street. The family had been forced to spend weekends away from their home in order to get a proper night's sleep. She stated that the Council needed to do more to encourage families to move into the City Centre, but considered that if applications such as this were being approved, a lot more families would be forced to move away. Ms Mehra concluded by stating that the reason other residents had not made representations, or attended the meeting, was that they had given up complaining as they considered that their concerns were being ignored.

4.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Mehra stated that the problems of noise nuisance and anti-social behaviour were particularly bad on Fridays and Saturdays, although she was very concerned at the number of additional days where the applicants had requested extended opening times, which could fall on any day of the week. The problems were worse when people were queuing to get into venues, when moving from one venue to another and when leaving the venues at the end of the night. Ms Mehra accepted that her concerns related to the bigger picture with regard to problems caused as a result of venues staying open longer, and that, other than finding broken glass around the premises, which the premises may not be responsible for, she could not report any specific problems relating directly to Reflex/Flares. She confirmed that the entrance was on Holly Street, therefore there were no major problems of noise nuisance caused by people queuing to get into the venue. Whilst there were no issues in terms of people being able to look into her property from the venue, there were issues in terms of people leaving the venue and walking past their property. Ms Mehra confirmed that she and her family often found glass bottles, some broken, outside her apartment and in the passageway next to the entrance to their apartments.

4.9 Councillor Rob Murphy, speaking on behalf of a number of his constituents, referred to the potential adverse effects of the extended opening hours at the premises on those residents living in the apartments in the immediate vicinity, namely West Point, Broughton House, Morton House and the former Education Department offices on Holly Street. He made reference to one specific constituent, who had been forced to move out of his apartment on Holly Street due to the problems of noise nuisance and anti-social behaviour, and was

now struggling to rent the apartment. He added that this particular resident had not bothered to make objections to the application as he did not think the Council would listen to him, as had been shown on previous occasions. Councillor Murphy expressed his concerns at the 'creep' in the extended opening hours of licensed premises in this area of the City Centre, indicating that the Council needed to take further action and draw a line in terms of the opening hours as it was now becoming unbearable for some residents living in that area. If this application was granted, it would reduce the already small window of uninterrupted sleep for residents. He stated that it had come to the point that residents almost accepted the additional noise and anti-social behaviour at weekends, but expressed concerns at the number of additional days the applicants were requesting extended opening hours for, such as the Saints' Days, which could fall on any day of the week. He concluded by stating that there was a need for the Council to consider the balance between residents' quality of life and the night-time economy, and that if this application was granted, it would cause further inconvenience for residents.

- 4.10 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Councillor Murphy stated that whilst this issue had not resulted in any significant casework, he had received a number of complaints from constituents regarding public nuisance and the lack of action being taken by the Council in response to such complaints. He confirmed that other than the issue of one of his constituents being forced to move out of his property on Holly Street due to the noise and anti-social behaviour linked to Reflex/Flares, the only complaints he had received, which related directly to the premises, were in relation to noise issues regarding glass bottles being emptied into the bins late at night.
- 4.11 Clare Eames, on behalf of the applicants, stated that Andrew Graham had been involved in the operation of Reflex/Flares since 2010, being the Designated Premises Supervisor (DPS) since 2012, thereby having a considerable level of experience in managing licensed premises. Prior to submitting the application, the applicants had researched the area and had undertaken extensive pre-consultation with the responsible authorities. They considered that the additional hour on Fridays and Saturdays would be suitable, and would not undermine the licensing objectives. Whilst it was accepted that there were a number of additional days on which the opening times would be extended, the applicants had considered that it would be more helpful to local residents and the responsible authorities to name these days so that people were aware, and could make any necessary arrangements. Ms Eames stated that the venue did not always stay open until the designated closing times, but this application would provide the applicants with flexibility to do so if required. Reference was made to the additional papers, which had been circulated to all relevant parties prior to the hearing, specifically to invites to Councillor Murphy and local residents living within the

immediate vicinity of the premises, to a meeting with management on 13th October, 2015, providing them with an opportunity of discussing any concerns they had in connection with the application. Whilst Councillor Murphy had responded, stating that he would be happy to talk to the applicants in the event of the application being granted, no residents had attended the meeting. Ms Eames made the point that the venue only used polycarbonate, therefore any problems regarding broken glass on the surrounding streets could not be attributed to the venue. There had been an issue regarding the use of the external bins, whereby another company had been found to be using them, but action had now been taken to lock and secure the external bin area. As the entrance to the venue was on Holly Street, it was not envisaged that there would be any major problems of noise nuisance to those residents living on West Street, and any likely problems of noise breakout from the venue would be minimised as there were two doors in the entrance lobby. She stressed that if there were any issues causing concern for local residents, the venue's management were very experienced and would be pro-active in dealing with any problems. Reference was also made to the company's Licensing Manual, which contained details of all relevant policies and procedures, in which all the Company's staff had been trained in. Ms Eames concluded by stating that there was no evidence in the representations of problems of public nuisance being directly attributed to Reflex/Flares and, if there were any such problems in the future, she was confident that the venue's management would be able to deal with it.

- 4.12 Jonathon Guest stated that, as the entrance was on Holly Street, the majority of customers would leave the venue at the end of the night and either get a taxi on Holly Street, or walk down to the taxi rank at Barker's Pool. He stated that he would be willing to meet with any residents to discuss their concerns.
- 4.13 In response to questions from Members of the Sub-Committee and the objectors, Mr Graham confirmed that customers were not allowed to take drinks past the inner door in the entrance lobby, let alone outside. There were rarely any problems in terms of noise breakout from the entrance as a result of the double doors and, although both doors may be kept open longer when larger groups of customers were arriving or leaving, the doors were never permanently left open. Mr Graham had been the DPS at the venue for four years and during that time, he had received no correspondence or been approached by any local residents or representatives of the responsible authorities, regarding complaints or issues of noise nuisance. As part of the licence conditions, management attended monthly Pub Watch meetings, which were attended by licensees of venues in the City Centre, the police, local residents and any other interested parties, to discuss any issues of concern with regard to the licensed trade. The venue's management would also attend a monthly meeting with other managers from the Stonegate Pub Company to discuss any issues of

interest, and share best practice, in terms of the operation of venues managed by the Company. As well as the police regularly attending Pub Watch meetings, the venue's management were in regular liaison with the police responsible for the City Centre area. The application to extend the opening hours had been made following a change in customer habits, in that people were now going out later, therefore wanting to stay out later. There was also an element of competition with other venues in the area. Another benefit of having longer opening hours was that it extended the period in terms of dispersal. With regards to current opening hours, the venue closed at 01:00 hours on Wednesdays and Thursdays, and 03:00 hours on Fridays and Saturdays. At present, on a Saturday night, there were generally between 80 and 130 customers in the venue during the last hour. The last customer would be let in an hour before closing time. If one of the additional days where extended hours were requested, fell on a Saturday, it could potentially result in the venue being open until 05:00 hours. Management would use statistics and their own knowledge to assess which nights were likely to be busy, and arrange opening times in advance. The management had not consulted anyone outside the Council in terms of its noise management plan on the basis that they had not received any complaints of noise nuisance. Whilst management regularly attended Pub Watch meetings, at which residents' groups had been present, they had not been invited to, or were aware that they could attend, meetings of the Sheffield City Centre Residents' Action Group (SCCRAG). As the venue only used polycarbonate, it could not be held responsible for the broken glass found on the streets and area around the venue. It was likely that people had bought the bottles from off-licences and had left or broken them on the street. The venue's Door Supervisors would not let anyone into the venue with a glass bottle or any other drink. For this reason, and as there was a Council bin nearby, it had not been considered necessary to have a separate bin. Although the additional days, where extended hours had been requested, were set out as part of the application, there was no legal requirement on the Company to inform residents of these days. This would be considered above and beyond the requirements of a licensee.

- 4.14 Clare Eames summarised the applicant's case, stressing that the Stonegate Pub Company was a responsible operator and there were no specific concerns relating to the operation of pubs the Company managed. She stated that there was little, or no evidence of any specific problems relating to Reflex/Flares, and that there had not been any outstanding objections from any of the responsible authorities and therefore, there was no evidence that granting the application would undermine the licensing objectives.
- 4.15 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.

- 4.16 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.17 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.18 RESOLVED: That the Sub-Committee agrees to grant a variation to the Premises Licence in respect of Reflex/Flares, 18 Holly Street, Sheffield, S1 2GT, in accordance with the amended operating schedule.

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