

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 18 May 2017

**PRESENT:** Councillors Josie Paszek (Chair), Andy Bainbridge and Cliff Woodcraft

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#### **1. APOLOGIES FOR ABSENCE**

- 1.1 No apologies for absence were received. Councillor Neale Gibson 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. LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A PREMISES LICENCE**

- 4.1 The Chief Licensing Officer submitted a report to consider an application for the grant of a Premises Licence made under Section 17 of the Licensing Act 2003 (Ref. No. 57/17).
- 4.2 Present at the meeting were Nick Semper and June Clarke (JMC Licensing Consultants, for the Applicants), the Applicants, Landlord of the premises, member of staff at the premises, Neil Bates and David Palmer (Trading Standards), Sean Gibbons (Environmental Health Service), John O'Malley (South Yorkshire Police), Jayne Gough (Licensing Strategy and Policy 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 Jayne Gough presented the report to the Sub-Committee, and it was noted that representations in respect of the application had been received from South Yorkshire Police, the Council's Trading Standards and Environmental Health Services, and were attached at Appendix 'B' to the report.
- 4.5 David Palmer stated that the premises had been used for the sale and

storage of illicit tobacco products and to a lesser extent, illicit alcohol, for over six years, with Trading Standards Officers having found, or test purchased, the illicit products at the premises on eight occasions over that period. On another occasion, a large stock of illicit products had been discovered in a first floor flat at an adjacent premise, and strong evidence was found to link the flat to the licensed premises. Also, during the same period, five individuals had been convicted for offences relating to the supply or storage of illicit goods. The Premises Licence Holder and Designated Premises Supervisor had changed on numerous occasions during the same period. Mr Palmer stated that a licence review application had been submitted on 7<sup>th</sup> March 2017, which detailed the facts of many of the representations referred to, and he referred to the grounds for making such an application. Since the representations made by Trading Standards, a certain level of engagement had been made with the applicants, details of which were included in the report, and, although this information showed that some responses to questions raised had been provided, the general view of Trading Standards Officers was that the applicants, and other staff at the premises, were being evasive in terms of their responses. In the light of the past history in terms of the premises, and the nature of the response to the concerns and questions raised, Trading Standards Officers were still concerned there still remained a risk that illicit tobacco and alcohol would continue to be sold at the premises. Mr Palmer also responded to a number of questions raised by Members of the Sub-Committee, Marie-Claire Frankie and Nick Semper.

- 4.6 John O'Malley stated that the Police's objections were based on the prevention of crime and disorder. He stated that the police had similar concerns to Trading Standards, in that, based on the past history of the premises, there was no guarantee that the sale of illicit tobacco and alcohol would not continue to be made at the premises. Mr O'Malley did confirm, however, that, following background checks on the applicants, there was nothing at this stage to suggest that the sale of illicit tobacco and alcohol would continue at the premises.
- 4.7 Sean Gibbons stated that the Environmental Health Service had objected to the application on the grounds of public safety in that, at the time of making the objection, works at the premises, as requested by the Service, had yet to be completed. Mr Gibbons stated that he had met the applicant to discuss and explain the works required but, whilst some work had taken place, it had not been completed to the Service's satisfaction. Mr Gibbons also responded to a number of questions raised by Members of the Sub-Committee, Marie-Claire Frankie and the applicant's representatives.
- 4.8 Nick Semper put forward the applicant's case, focusing on the Council's Licensing Policy and legal aspects of the application. Mr Semper stressed that this was an application for a Premises Licence, and not a review, therefore, in the light of the fact that there was no

evidence in terms of the applicant selling illicit goods, a decision of the Sub-Committee to not grant the application would be outside the scope of the Council's Licensing Policy. Mr Semper then referred to issues with regard to surveillance of the premises, by Trading Standards Officers, which, in his opinion, had not been necessary, proportionate and had not had the relevant authorisation.

- 4.9 June Clarke referred to the evidence which had been circulated to Members prior to the meeting, and which contained information provided by co-workers, associates, landlords, solicitors, utility companies and the City Council, all of which supported the applicant's position that he was the proprietor of the premises, and did not deal in illicit tobacco and alcohol. Mrs Clarke also referred to a new, hi-tech CCTV system, which had recently been installed at the premises, and to various information and books used in association with staff training and Challenge 25. As part of her representations, Mrs Clarke introduced the landlord, who spoke on the applicant's behalf, as well as to a statement made by one of the employees of the shop.
- 4.10 Nick Semper and June Clarke responded to a number of questions raised by Members of the Sub-Committee, Marie-Claire Frankie and the objectors.
- 4.11 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.
- 4.12 Marie-Claire Frankie 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 attendees.
- 4.14 RESOLVED: That in the light of the contents of the report now submitted, together with the additional information circulated and the representations now made, including the responses provided to the questions raised, the application for a Premises Licence in respect of the premises now mentioned, be granted, subject to the additional conditions now agreed, which will be set out in the Notice of Determination (Ref. No. 57/17).

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