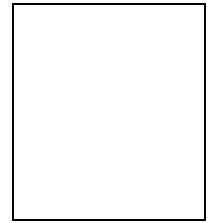




LOCAL CITY COUNCIL Licensing Sub Committee Report



Report of: Chief Licensing Officer, Head of Licensing

Date: 23rd November 2020 at 2pm via zoom

Subject: Licensing Act 2003

Author of Report: Stephen Lonnia

Summary: To consider an application to vary a premises licence made under the Licensing Act 2003.

Saw Grinders Union – G19-G20 Globe Works Penistone Road Sheffield S6 3AE

Recommendations: That members carefully consider the representations made and take such steps, as the Sub Committee consider necessary for the promotion of the Licensing Objectives.

Background Papers: Attached documents
[Sheffield City Councils Statement of Licensing Policy](#)

Category of Report: OPEN

**REPORT OF THE CHIEF LICENSING OFFICER
(HEAD OF LICENSING) TO THE LICENSING SUB COMMITTEE
LICENSING ACT 2003**

Ref No: 88/20

Saw Grinders Union – G19-G20 Globe Works Penistone Road Sheffield S6 3AE

1.0 PURPOSE OF REPORT

1.1 To consider an application for the variation of a premises licence made under Section 34 of the Licensing Act 2003.

2.0 THE APPLICATION

2.1 The applicant is Lunar Coffee Co Ltd.

2.2 The application was received by the Licensing Service on the 7th October 2020 and is attached to Appendix 'A' of this report.

2.3 A copy of the current Premises Licence is attached at Appendix 'B'.

3.0 REASONS FOR REFERRAL

3.1 Representations concerning the application have been received from the following and are attached at Appendix 'C':

2 Objections

3.2 There have been some negotiations between parties and copies of the correspondence is also attached at Appendix 'C'

3.3 The applicant and objectors have been invited to attend the hearing. Copies of the front page of the notices are attached to this report labelled Appendix 'D'.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no specific financial implications arising from this application. However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all these costs. The impact of these additional costs (if any) will be kept under review and may be subject of a further report during the year.

5.0 THE LEGAL POSITION

5.1 The Licensing Act 2003 at section 4 (1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which section 4(2) sets out as:

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance;
- d) the protection of children from harm.

5.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

6.0 HEARING REGULATIONS

6.1 Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.

6.2 The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act as set out at Appendix 'D'.

6.3 Attached at Appendix 'D' is the following:

- a) a copy of the Notice of Hearing;
- b) the rights of a party provided in Regulations 15 and 16;
- c) the consequences if a party does not attend or is not represented at the hearing
- d) the procedure to be followed at the hearing.

7.0 APPEALS

7.1 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations against decisions of the Licensing Authority to the Magistrates' Court.

8.0 RECOMMENDATIONS

8.1 That Members carefully consider the representations made and take such steps as the Sub-Committee consider appropriate for the promotion of the Licensing Objectives.

9.0 OPTIONS OPEN TO THE COMMITTEE

9.1 To vary the premises licence in the terms requested.

9.2 To vary the premises licence with conditions.

9.3 To reject the whole or part of the application.



Stephen Lonnia
Chief Licensing Officer
Head of Licensing

23rd November 2020

Appendix A

The Application

Attached as a PDF

Appendix B

Current Premises Licence

ATTACHED AS A PDF

Appendix C

Objections

OBJ -1

Dear Sirs,

I represent Sheffield City Council's Environmental Protection Service as Responsible Authority for the Prevention of Public Nuisance for this application.

You will be aware of preceding informal discussions around EPS concerns over the proposed permanent adoption of the extended area currently agreed for temporary use during the current coronavirus pandemic. Unfortunately, whilst a number of controls were volunteered and agreed (see emails dated 30th Oct 2020 below), EPS concern over the proposed use of the area until 2300 hours on all days has not been resolved prior to the deadline for representations.

I must therefore formally advise you of my objection to this application, on the basis of continuing concerns over increased potential for public nuisance associated with the proposed variation.

I remain open to discussion, should there be opportunity this resolve this concern prior to the referral to this matter to SCC Licensing Subcommittee.

Kind regards,

Neal

Mr Neal Pates
Environmental Protection Officer

OBJ -2

Thank you for your emails regarding the above application.

I regret to inform you that as a responsible authority in respect of Public Safety, at the present time I have no alternative than to make a formal representation due to the proposed layout and arrangements shown in the plan, which are unsatisfactory.

Possible options were discussed via email below and the outcome was for the applicant to provide additional information and a revised plan. We may also need to consider possible conditions to be attached to the licence arising from that information.

The objection can be withdrawn once the revised plan and conditions are agreed.

Thank you for your assistance.

Kind regards

Elaine Cresswell

Environmental Health Technician/Health & Safety Inspector Environmental Regulation, Sheffield City Council, 5th Floor North, Howden House, 1 Union Street, Sheffield, S1 2SH

Correspondence between parties, Certain personal information has been redacted.

From: Cresswell Elaine

Sent: 03 November 2020 11:28

Subject: SR672333: Variation Application - SY2680PR, Saw Grinders Union, G19 & G20
Globe Works, Penistone Road, S6

Dear Chris,

Thank you for your reply and accompanying photographs to my email of 28th October 2020. Unfortunately the photographs, whilst helpful, do not replace the need to show their number and location on the plan. See below.

My understanding is that the extension of the licensed area outside the premises in the summer was intended to address anticipated Covid-19 restrictions post 4th July and that 'this arrangement would be temporary' over the summer months.

My understanding of the Covid-19 controls in place at the Saw Grinders Union Café that time were:

- Seated eating & drinking only
- restrictions on those visiting the WC to one per table at a time
- monitoring of queuing at the toilets and
- with permission from the landlord, escorted visits to the main office building staff toilets to prevent queues

Given the difficulties businesses were faced with at the time, this arrangement seemed reasonable and proportionate. It is on this basis that I did not object.

No one could have anticipated that Covid-19 would be an ongoing situation with multiple levels of restrictions and requirements as we are now experiencing. At some point these restrictions and requirements will cease, the license however will not, so we must consider the permanent extension of the licensed area and seating on its own merits.

As per the guidance sent at the time of original licensing application, the number of toilets for customers is based on the current edition of BS6465 as amended, Table 10 for cafe's and restaurants, Table 11 for licensed pubs and bars.

As the proposed additional seating area significantly exceeds the original delineated small area of outdoor seating this means additional toilets will be needed.

If the use of the office building toilets is to be considered as a permanent part or available to the licensed premises then these will need to be drawn on the plans showing male and female cubicles, any accompanying lobby areas, direction of opening of doors, fire escape points and any changes in level (steps) within the public accessible area as per government guidance on licence application plans. Any CCTV coverage should also be shown.

There will also need to be consideration of a condition that these toilets will be freely accessible by customers throughout the opening hours of the licensed premises on a permanent basis.

Please provide the details of the toilets on the plan and confirm the number of seats to be provided in the yard.

Unfortunately, given that further information and consideration of impact on public safety is required and the timescale now quite close to submission date I propose an objection to the application so these matters can be resolved.

Kind regards
Elaine
Elaine Cresswell BSc (Hons)

From: Chris Grunert
Sent: 29 October 2020 09:52
To: Pates Neal Cresswell Elaine
Cc: James Rodgers
Subject: Saw Grinders Union

Neal / Elaine,

As you will appreciate, our client has submitted a full variation application for the express purpose of making this variation permanent. This follows your opinion on the last occasion that a minor variation application would be insufficient.

I appreciate that you are not trying to frustrate the process however the costs incurred by my client arising from multiple applications is a factor, a further temporary permission is therefore unattractive and, in our opinion, unnecessary.

We feel a variation could and should take permanent effect, and your collective concerns (regarding trading outside of Covid) can be addressed by means of conditions (I will return to this below).

Neal, we note your comments regarding planning permission. These, as you appreciate, are not strictly relevant to this application but by client is cognisant of his obligations and the limitations imposed by planning. As you appreciate the operation of the premises is currently subject to tier 3 regulations, which in effect enforce 'restaurant conditions'. The tier 3 status will lapse in 28 days unless renewed. Looking at the developing situation, an extension appears to be a distinct possibility. In addition to the restaurant conditions imposed by tier 3, the premises are also subject to a 10pm curfew until next year (6 months after the implementation of the curfew regulations).

We hope that these two significant factors will give you sufficient comfort in the short term. We have not received any complaint from your service regarding trading (inside or outside tier 3 regulations) since July 4th. The purpose of the application is not to host enlarged numbers of patrons but to allow the business to host numbers in line with historical trading; but in a more socially distant manner.

Toilet facilities have been shown to be adequate over the summer, when external areas might reasonably be expected to be more popular, and our client does not foresee and issue in this regard. They have however may contingency plans and have made arrangements with the Landlord to access public lavatories in the Globeworks complex (pictures attached). The facilities, if used by the business, will be subject to the same cleaning regimes at toilets within the Saw Grinders Union.

We would propose the a condition requiring the premises to produce a policy on the operation of the 'enhanced' external area. This policy can be shared with your services and could include the following subject headings:

- (1) Curfew
- (2) Capacity
- (3) Additional Sanitary Provisions

Our client could thereafter review the operation of the area in light of developing regulation and, in due course, settle on a post-Covid operation. We suspect that the use of the enlarged area will become less of a necessity post-Covid.

If agreeable, please let me know and I can draft a specific conditions (including the above headings and/or any others agreed).

Regards

Chris Grunert

Partner

Appendix D

Hearing Notices / Regulations / Procedures



**Notice of hearing of representations
in respect of the following application:
LA03 Variation of a Premises Licence Application**

Lunar Coffee Co Limited
c/o John Gaunt Solicitors

Sent via email:

The Sheffield City Council being the licensing authority, on the 7th October 2020 received your application in respect of the premises known as;

Saw Grinders Union – G19-G20 Globe Works Penistone Road Sheffield S6 3AE

During the consultation period, the Council received a representation from the following authorities / interested parties:

2 Responsible Authorities:

Health Protection Services & Environmental Protection Services

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

The Council now **GIVES YOU NOTICE** that representations will be considered at a hearing to be held **remotely via Zoom on Monday 23rd November 2020 at 2pm**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representations which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 1) Your response to the representations made, upon which you may ask and be asked questions by the parties to the hearing.
- 2) You may also be asked questions by the parties to the hearing, relating to your application for a licence.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD, or LicensingService@sheffield.gov.uk** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 10th November 2020

Signed: Clive Stephenson

The officer appointed for this purpose
Licensing Officer



**Notice of hearing of representations
in respect of the following application:
LA03 Variation of a Premises Licence Application**

Neal Pates
Environmental Protection Service
Sheffield City Council

Sent via email:

The Sheffield City Council being the licensing authority, on the 14th May 2019 received your application in respect of the premises known as;

Saw Grinders Union – G19-G20 Globe Works Penistone Road Sheffield S6 3AE

During the consultation period, the Council received a representation from the following authorities / interested parties:

2 Responsible Authority – Environmental Protection Service & Environmental Health Services

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

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Dated: 10th November 2020

Signed: Clive Stephenson

The officer appointed for this purpose
Licensing Officer



**Notice of hearing of representations
in respect of the following application:
LA03 Variation of a Premises Licence Application**

Elaine Creswell
Environmental Health Protection Service
Sheffield City Council

Sent via email:

The Sheffield City Council being the licensing authority, on the 14th May 2019 received your application in respect of the premises known as;

Saw Grinders Union – G19-G20 Globe Works Penistone Road Sheffield S6 3AE

During the consultation period, the Council received a representation from the following authorities / interested parties:

2 Responsible Authority – Environmental Protection Service & Environmental Health Services

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

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Dated: 10th November 2020

Signed: Clive Stephenson

The officer appointed for this purpose
Licensing Officer

NOTES

Right of attendance, assistance and representation

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Representations and supporting information

16. At the hearing a party shall be entitled to –
- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
 - (b) if given permission by the authority, question any other party; and
 - (c) address the authority

Failure of parties to attend the hearing

20. – (1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.
- (2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may:–
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
 - (b) hold the hearing in the party's absence.
- (3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- (4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

Procedure at hearing

21. Subject to the provisions of the Regulations, the authority shall determine the procedure to be followed at the hearing.
22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.
23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for at regulation 16.
25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –
- (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the authority may specify,
- but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

Regulation 8

- (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating –
 - (a) whether he intends to attend or be represented at the hearing;
 - (b) whether he considers a hearing to be unnecessary
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

- (3) In the case of a hearing under –

- (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
- (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

- (4) In the case of a hearing under –

- (a) section 167(5)(a) (review of premises licence following closure order),
- (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
- (c) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

- (5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Licensing Act 2003 – Hearing Procedure – Regulation 7 (1)

This procedure has been drawn up in accordance with the Licensing Act 2003 to assist those parties attending Licensing Committee hearings.

1. The hearing before the Council is Quasi Judicial.
 2. The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
 3. The Chair will ask the applicants to formally introduce themselves.
 4. The Solicitor to the Committee will outline the procedure to be followed at the hearing.
 5. Hearing Procedure:-
 - (a) The Licensing Officer will introduce the report.
 - (b) Questions concerning the report can be asked both by Members and the applicant.
 - (c) The Licensing Officer will introduce in turn representatives for the Responsible Authority and Interested Parties who will be asked to detail their relevant representations.
 - (d) Members may ask questions of those parties
 - (e) With the leave of the Chair the applicant or his representative may cross examine the representatives of the Responsible Authorities and Interested Parties.
 - (f) The applicant/licensee (or his/her nominated representative) will then be asked to:-
 - (i) detail the application;
 - (ii) provide clarification on the application and respond to the representations made.
 - (g) The applicant/licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
 - (h) The applicant will then be given the opportunity to sum up the application.
 - (i) The Licensing Officer will then detail the options.
 - (j) There will then be a private session for members to take legal advice and consider the application.
 6. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.
- NB:
- 1) At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
 - 2) The Committee Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.