

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 30 November 2017

**PRESENT:** Councillors David Barker (Chair), Adam Hurst and Mick Rooney

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

1.1 Apologies for absence were received from Councillors Jack Clarkson and Vickie Priestley.

#### **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 - DUBAI CAFE, 25 LONDON ROAD, SHEFFIELD S2 4LA - REVIEW OF A PREMISES LICENCE**

4.1 The Chief Licensing Officer submitted a report to consider an application made by the Health and Safety Enforcing Authority, under Section 51 of the Licensing Act 2003, for a review of the premises licence for Dubai Café, 25 London Road, Sheffield S2 4LA (Case No.144/17).

4.2 Present at the meeting were Sean Gibbons (Health and Safety Enforcement Team, Applicant), Susan Hird (Consultant in Public Health), Julie Hague (Sheffield Safeguarding Children Board), Cheryl Topham (South Yorkshire Police, Licensing), Georgina Hollis (Licensing Strategy and Policy Officer), Clive Stephenson (Licensing Strategy and Policy Officer), Samantha Bond (Legal Adviser to the Sub-Committee) and Jennie Skiba (Democratic Services). The Premises Licence Holder had been invited to attend but was not present.

4.3 Sean Gibbons stated that the premises first opened in 2011 and has illegally operated as a Shisha bar and the licence holder had been prosecuted three times, firstly in 2013, then again in 2014 and again in 2017 for allowing shisha pipes to be smoked indoors, and to date, he believes the premises are still being used as a shisha bar. Sean Gibbons further stated that he visited the premises in October, 2016 and raised concerns regarding the safety of a gas appliance and the electrical wiring which was hanging down above a heater and not encased in trunking, as could be seen from the photographs circulated at the meeting. Sean Gibbons reported that, following such visit, two Statutory Improvement Notices were served under the Health and Safety at Work etc. Act, 1974 which required the licence holder to obtain a satisfactory Gas Safe Certificate and an electrical condition report within 21 days. Neither was received, so legal proceedings were

initiated. Sean Gibbons went on to state that eventually a gas certificate was received but there was some doubt as to its credibility. The licence holder informed Mr. Gibbons that he only used the appliance for approximately 10 minutes per day, but when challenged, he changed his stance on this and had the appliance capped off. At a court hearing on 29<sup>th</sup> August, 2017, an electrical certificate was produced, but there were serious flaws on the certificate and the hearing was adjourned for further investigations to take place. Sean Gibbons stated that, although Dubai Café continues to operate, he still has a lot of outstanding issues as the owners continue to demonstrate a serious disregard for legislation.

- 4.4 In response to questions from Members of the Sub-Committee, Sean Gibbons stated that the Health and Safety Enforcement Team always work with licence holders to get them to comply with legislation and bringing prosecution against a premise is the final step in the process. He commented that he had tried to guide the owners of the premises in the right direction and had exhausted attempts to get them to comply. Sean Gibbons further stated that the outstanding issue was electrical safety and he had met with the landlords and their Solicitors to inform them of the risks, and he had been informed by the landlords that they were working towards getting the licence holder to carry out the works required.
- 4.5 Susan Hird presented the statement submitted by Greg Fell, Director of Public Health. She stated that it had been found that the premises were still operating illegally under the smoke free legislation. She added that the smoke free legislation had been effective in reducing the risk of harm associated with tobacco products for workers and the general public. Susan Hird further stated that there was a perception that smoking a shisha pipe was safer than smoking tobacco, but evidence showed that the risk to health could be significantly more than the risk to those who smoked cigarettes. She further stated that the City Council spends £1m per annum on a programme which focused on prevention measures aimed at stopping children from starting to smoke, increasing the number of smoke free outdoor sites and “stop smoking” support for adults and children alike.
- 4.6 Julie Hague stated that she had visited the premises with Sean Gibbons in an advisory capacity. She had concerns that at present there were no conditions to prevent children from accessing the premises, and that the licence holder had failed to recognise the age verification scheme and was in breach of the licence conditions requiring the Challenge 21 scheme to be in operation at all times. She added that a range of information had been handed to the management of the premises, including the guidance which had been produced by the Responsible Authorities which set out what standards were expected to properly operate a locally recognised scheme. Ms. Hague stated that during one of her visits, the premises licence holder (PLH) informed her that he operated a “No Under 18’s” policy but there was no evidence of this, there were no staff training records and what the PLH purported to be a refusals log was totally unacceptable. Also during such visit, she observed a number of customers smoking lit shisha pipes in the indoor lounge area.
- 4.7 Cheryl Topham stated that a call had been made to the Police from a revenue protection officer on behalf of British Gas. The officer said that he had visited the

premises to disconnect the electricity supply due to the fact that from 1<sup>st</sup> March, 2012 to 9<sup>th</sup> February, 2016, none of the bills had been paid despite numerous reminder letters being sent. Ms. Topham further stated that when officers from British Gas had visited the premises, they had met with hostility which led them to believe that the owners had been tampering with the electricity supply. The unpaid electricity bill amounted to between £57,000 and £59,000 but the meter showed usage to be zero. The electricity supply was then cut to the premises. On 19<sup>th</sup> October, 2017, Ms. Topham received a call from British Gas stating that although the electricity supply had been cut in 2016, there was evidence that the supply had been reconnected illegally and that over £12,000 of electricity had been used. On investigation, it was found that a large generator had been installed to the rear of the premises and that a cable was leading from the premises to the business next door. The owner stated that he was only running a fridge from this supply to store ice cream. When the cable was disconnected, Dubai Café was plunged into complete darkness and members of the public were asked to leave. Cheryl Topham concluded by stating that British Gas had started civil proceedings, but as yet they were unable to establish exactly who was responsible for the premises.

- 4.8 Georgina Hollis stated that the Licensing Authority was supporting the review due to there being an alcohol licence in place although it was not used to its full potential. She added that she had, on occasion, visited the premises to see if there was hot food and drink being served after 11.00 p.m. She stated that during such visits, she had never seen any children on the premises. Ms. Hollis felt that the owners had blatantly flouted the law with regard to shisha pipes being smoked indoors and that they had hardly ever complied with relevant legislation.
- 4.9 Clive Stephenson informed Members that the owners of Candytown Restaurant, situated above Dubai Café, were also the owners of Dubai Café and that there were four licenced premises in that block. He added that the owners of Candytown were fully aware of the fire risk but had taken no action to reduce it.
- 4.10 Sean Gibbons summed-up by stating that the owners were not fit and proper as they had blatant disregard for the relevant legislation.
- 4.11 Clive Stephenson outlined the options open to the Sub-Committee.
- 4.12 RESOLVED: That the public and press and attendees involved in the hearing 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.
- 4.13 Samantha Bond reported orally, giving legal advice on various aspects of the application.
- 4.14 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.15 RESOLVED: That, in the light of the information contained in the report now

submitted, the additional information now circulated and the representations now made, the Sub-Committee agrees to revoke the licence in respect of Dubai Café, 25 London Road, Sheffield S2 4LA (Case No.144/17) and strongly encourages a joint visit to the landlords by the Responsible Authorities.

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

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