

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 7 June 2012

**PRESENT:** Councillors John Robson (Chair), Neale Gibson, Vickie Priestley and Clive Skelton

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#### **1. WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements

#### **2. APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received.

#### **3. LICENSING ACT 2003 - K-MAX KARAOKE BAR & RESTAURANT, 51 SCOTLAND STREET, SHEFFIELD S3 7BS**

3.1 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 K-Max Karaoke Bar and Restaurant, 51 Scotland Street, Sheffield, S3 7BS.

3.2 Present at the meeting were Chris Grunert (John Gaunt and Partners, Solicitors, for the Applicants), Nan Wang (Applicant), Shaylan Popat (Premises owner), Councillor Rob Murphy (Objector), Ruth Johnson (Local resident – Objector), Chris Johnson (Owner of local property – Objector), Sarah Johnson (accompanying the Objectors), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

3.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

3.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from Councillor Rob Murphy and a local resident and her father, who owned the property, and were attached at Appendices 'C' and 'D' to the report, respectively. He added that the representations which had been received from the Sheffield Safeguarding Children Board had now been withdrawn following the agreement of the suggested conditions by the applicants, and which were read out at the hearing. He also circulated conditions from the Environmental Protection Service, Health Protection Service and South Yorkshire Police, which had been agreed by the applicants.

3.5 Councillor Rob Murphy stated that he was objecting to the application

mainly on the grounds of public nuisance. He stated that the proposal to open until 02:00 hours Sunday to Thursday and 04:00 hours Friday and Saturday would create problems of noise nuisance for residents within the immediate vicinity of the premises, particularly those residents of Chapel West, which was almost directly opposite. The development comprised 15 apartments in a converted chapel. The windows within the development were only single-glazed, therefore increasing the possibility of the residents being affected by the noise from the premises. As well as there being a number of families with young children, some residents would need to be up early in the morning for work and other reasons and would therefore prefer an early night, without any disturbance. He also stated that residents of a number of other residential developments in the area were likely to be affected by noise nuisance as a result of the premises. He stated that the main cause of concern with regard to noise nuisance involved customers arriving at and leaving the premises, which would not only involve customers talking or shouting loudly when leaving, but also involve taxis pulling up and leaving the premises as late as 04:00 hours. He concluded by stressing that the area was predominantly residential and that the premises operating until 04:00 hours at the weekends could have a serious effect on the quality of life of residents within the area.

- 3.6 In response to questions from Members of the Sub-Committee and the applicant's representative, Councillor Murphy confirmed that there were 15 apartments within the Chapel West development, but he could not confirm the number of residents. Roughly half of the apartments faced on to Scotland Street, directly opposite the premises, with the windows being very large, therefore increasing the potential for noise nuisance. He was not aware of the secondary double-glazing, which could be installed to windows to help minimise the effects of any noise nuisance from outside.
- 3.7 Ruth Johnson stated that her main reasons for objecting to the application also focused on public nuisance, and related to potential noise nuisance from customers arriving at and leaving the premises in the early hours of the morning. She also raised concerns regarding the potential for noise from the smoking area at the premises. She stated that it was a reasonably quiet area, which was predominantly residential, and that the proposed venue would be out of place in the area. She raised specific concerns regarding the number of families living in the Chapel West development, stating that it would be unsuitable to have such a venue directly opposite.
- 3.8 Chris Johnson stated that, whilst he did not live in the area, he had bought the apartment at Chapel West, which was now joint-owned with his daughter, who had lived in the property since 2009. He stated that his objections to the application were the same as his daughter's, and focused on the potential noise nuisance for residents living within the immediate vicinity of the premises. He stated that, as part of his

research into the area, prior to purchasing the apartment, he had read about the Council's vision for the St Vincent's area on its website and noted that the Council was looking for the residential community to thrive in this particular area. He did not consider it suitable having such a venue within a residential area, particularly one that would stay open until 02:00 hours during the week and 04:00 hours at weekends.

- 3.9 In response to questions from Members of the Sub-Committee and the applicant's representative, Mr Johnson stated that, whilst there was very little in terms of licensed premises in the area when purchasing the apartment in 2009, he accepted that as it was very near the City Centre, there was a likelihood that there would be such establishments in the future. He added that he would be happy with the venue closing at 00:00 hours, but considered the proposed hours of 02:00 hours Sunday to Thursday and 04:00 hours Friday and Saturday too late. Ruth Johnson stated that as she worked full-time, she was rarely at the apartment during the day but was there most weekends. The area was reasonably quiet and she often slept with a window open at night. Although it was pointed out to her that Scotland Street was used by many car drivers and pedestrians as a through-route from town to Walkley and Crookes, she did not consider the area to be particularly busy or noisy. She confirmed that the neon sign outside the premises did not have any impact on her sleep at night. The premises were not in operation when she moved in in September 2009. She noticed a sign on the premises a few months ago, although she could not confirm how long it had been there. Mr Johnson could not confirm whether there was any reference on the Council's website to licensed activities/entertainment as part of the St Vincent's Action Plan, when looking to purchase in the area. Ruth Johnson stated that there had been no problems of noise nuisance linked to the premises to date.
- 3.10 Chris Grunert stated that the premises had not previously held a license, and had previously been used for storage purposes. The venue had been operating for the last few weekends, using Temporary Events Notices, and had opened until 00:00 hours. There had been no complaints of any nature by residents. Mr Grunert referred to the plan of the premises, which was circulated at the hearing, indicating that there were two distinct trading areas, a holding bar area at the front and a karaoke area to the rear. Due to the systems in place, there should be no possibility of anyone hearing any noise emanating from the premises and steps had been taken to ensure that any noise from customers leaving the premises was kept to a minimum. In terms of the external smoking area, Mr Grunert stated that the applicants would be happy for a condition restricting the number of customers using the area at any one time, to be imposed on the Premises Licence. In terms of the noise nuisance caused by taxis arriving at and leaving the premises, particularly in the early hours of the morning, he accepted this was a potential issue for local residents, but was a problem linked to numerous other licensed premises in the City. He stated that the applicants would be happy to organise taxis for

customers, which would limit the number of taxi movements and stop customers waiting for a taxi outside the premises. The licensing hours were in keeping with other similar premises in the City. Mr Grunert responded to the concerns raised by other objectors, who were not present at the hearing.

- 3.11 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Councillor Rob Murphy, it was reported that there were three stationary CCTV cameras outside the front of the premises and three cameras in the bar area. In terms of staffing, a manager would be present at the premises at all times during operation, and Mr Wang would also be spending a lot of time at the premises. Although Mr Wang's postal address was in Birmingham, he had other business interests in Sheffield and also had a residential property in the City. Whilst Mr Wang was the only Premises Licence Holder at the present time, arrangements would be made for his manager to apply for a licence. In total, there would be Mr Wang, the manager and five other staff working on the premises during opening hours. The signature on the application for the Premises Licence was that of the applicant's mother, who was the only Director of K-Max Entertainment Project Limited. In terms of the capacity and layout of the private rooms in the premises, they comprised fixed seating and had a large screen and a small stage, with the largest room having a capacity of 15 people and the smallest, a capacity of four. Customers would be expected to wait in the holding bar area on arrival and then be led to whichever room they had booked for their entertainment. Customers could be served food and drink in the rooms on request. All the rooms were individually insulated and although they all had individual sound systems, the systems were not fitted with individual sound limiters. The premises had been open on Friday and Saturday for the last five weeks, closing at 00:00 hours both nights. There had been approximately 50 people in attendance on each night and there had been no complaints of noise nuisance from local residents. The overall capacity of the premises was between 50 and 80. In terms of last admission times, during the recent operation, the latest time customers had been admitted to the premises was approximately two hours prior to closing time. The majority of customers would be those who had pre-booked sessions, but it was likely that customer who had not booked would be allowed entry to the venue. All customers would be requested to wait in the bar area prior to being directed to their room. Customers who had not booked a session would still be able to gain entry to the premises and have a drink and use the karaoke facilities in the front bar area, but such customers would not be admitted after 00:00 hours. Decisions on how many customers who had not booked sessions to be allowed to gain entry to the premises would be based on the level of custom on any particular night. The applicant's representative suggested that if the application was granted, the applicants would be willing to operate on the basis of the last entry being at 00:30 hours Sunday to Thursday and 02:00 hours Friday and Saturday. In terms of access to the premises and door

security, there would be two security staff located in the lobby and able to go outside and deal with any trouble if necessary. Customers would access the premises through the front door, then arrive at a magnetic door with a buzzer-entry system, which was covered by CCTV, so staff would see who was entering the premises. As the majority of customers will have pre-booked sessions, staff will be aware that they are expecting them. Whilst the applicant's representative accepted that sound tended to travel further in the early hours of the morning, when there was less background noise, he stated that there were measures in place to minimise the effects of any noise caused by customers arriving at and leaving the premises. Mr Wang confirmed that those customers leaving the premises, and who had booked a taxi, would be required to wait in the bar area until the taxi arrived. The applicants would be using City Taxis, who would text customers a few minutes before arriving to pick them up, which would minimise any potential for people hanging around on the street outside.

- 3.12 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.
- 3.13 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 3.14 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 3.15 RESOLVED: That the Sub-Committee agrees (a) to grant the Premises Licence in respect of K-Max Karaoke Bar and Restaurant, 51 Scotland Street, Sheffield, S3 7BS, in the terms now requested, and subject to the operating schedule, agreed conditions and to the modified conditions now made as follows:-
- (i) No entry to new customers after 00:30 hours Sunday to Thursday and 02:00 hours Friday or Saturday, except for pre-bookings;
  - (ii) A maximum of six people will be permitted in the smoking area at any one time; and
  - (iii) A contact number will be made available for use by the residents at all times the premises are open; and
- (b) the following changes to the modified operating schedule following agreement with the Responsible Authorities, as follows:-

Environmental Protection Service

(i) A written noise management plan will be agreed with the Environmental Protection Service and be made available for inspection by authorised officers from Environment and Regulatory Services and Licensing Services, Sheffield City Council, on request;

(ii) no condition will be imposed requiring that the premises will not trade in excess of its planning hours;

(iii) no condition be imposed stating that no licensable activity shall be permitted on the first floor of the premises without the written consent of the City Council's Health Protection and Environmental Protection Services, under conditions requested by the Environmental Protection Service, on the basis that they were already covered in the conditions requested by the Health Protection Service; and

(iv) no condition shall be imposed stating that when regulated entertainment, in the form of dancing, is to take place on the premises, in an area not previously approved for dancing by the Authority, at least 14 days notice must be given to Environment and Regulatory Services (Health Protection Service) and the Licensing Authority, identifying the area to be used; the designated dance floor should be delineated, suitable and adequate in size for its intended use and dancing must not take place in the area until approved by the Authority, on the basis that this condition had already been requested by the Health Protection Service.

South Yorkshire Police

(i) no condition shall be imposed requiring a Refusals Log to be maintained as it is a requirement of a Challenge 25 scheme;

(ii) a written risk assessment of door staff be drafted and kept for six months, and made available for inspection by authorised officers from South Yorkshire Police and the City Council's Licensing Services, on request; and

(iii) the words "where appropriate" be deleted from the condition referring to notices being displayed at all exits and the condition shall now read as "Prominent, clear and legible notices shall be displayed at all exits, requesting the public respect the needs of local residents and to leave the premises and area quietly".

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