

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 16 October 2014

**PRESENT:** Councillors David Barker (Chair), Olivia Blake and George Lindars-Hammond

.....

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

1.1 No apologies for absence were received. Councillor Cliff Woodcraft 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 - POINTING DOG CLUBHOUSE, 516 ECCLESALL ROAD, SHEFFIELD S11 8PY**

4.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence made under Section 34 of the Licensing Act 2003, in respect of the premises known as Pointing Dog Clubhouse, 516 Ecclesall Road, Sheffield, S11 8PY.

4.2 Present at the meeting were Richard Law (Java Joe Limited, Applicant), Phillip Roberts (Manager of the premises), John Gaunt (Solicitor acting on behalf of the Applicant), Richard Wood (Enquiry Agent on behalf of the Applicant), Jonathan Round (Environmental Health Officer, Sheffield City Council), Marian Watson, Roger Beaverstock, Andy Green, Eamonn Ward, Councillor Brian Webster, Marika Puglisi, Matthew Simpson, Helen Davies, John Green and Caroline Burke (objectors), Matt Proctor (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and Jennie Skiba (Democratic Services).

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

4.4 Matt Proctor presented the report and it was noted that representations had been received from the Environmental Protection Service, 41 local residents and one Ward Councillor and were attached at Appendices "C" and "D", respectively, to the report.

4.5 Jonathan Round made reference to the original submission and skeleton

argument which had been circulated by John Gaunt. He stated that other licensed premises in the vicinity which were referred to have different licensed hours to the Pointing Dog, in that the outside area at the Pointing Dog is already licensed for three hours beyond the other premises on Thursdays to Saturdays. He also referred to a noise impact assessment which had been carried out relating to a roof-mounted extractor fan and felt that the conclusions reached were inaccurate and stated that the Pointing Dog was currently in breach of planning conditions. He stated that the noise impact assessment had been carried out on a Monday night, which was possibly the quietest night of the week for business and had not been monitored on the Dover Road side of the premises.

- 4.6 Jonathan Round stated that the outside area to the front of the Pointing Dog has a clear line of sight with properties on Dover Road and residential accommodation on Ecclesall Road and as such there is potential noise nuisance from customers in the outside area, those queuing to gain access into the premises whilst waiting to have their membership checked, and those arriving in or waiting for taxis. He added that Night Time Noise Service Officers had witnessed elevated noise levels when responding to complaints received by the 101 service. Jonathan Round believes that the noise levels could be increased by people making their way from closing premises in the surrounding area and customers migrating between another business with extended trading hours, and the Pointing Dog.
- 4.7 In response to questions, Jonathan Round stated that, following complaints received from members of the public, he had met with the management of the Pointing Dog in May but felt that any further meetings would not be fruitful and that he had been advised by the Licensing Service that this matter was coming before the Sub-Committee and all outstanding issues could be raised there. He said that he had monitored the area on a Friday night and that although there was noise from other premises, the loudest noise was by people sat outside the Club, arriving/departing by car or on foot and from the kitchen extractor fan which, if the extension was granted, could carry on until 1.00 a.m. Whilst monitoring the area, he saw someone leave the Club and subsequently vomit outside. The door staff did not come to their aid and felt that if the premise was run as a "members club", assistance would be given, but there appeared to be an open door policy with no limit to the numbers of members or any qualifying criteria.
- 4.8 In response to further questions, Jonathan Round judged the line of sight to end at number 26 Dover Road and although there is a screen at the entrance, it is not very effective. When asked how many calls had been received by the 101 service, he said that between 25<sup>th</sup> May, 2013 and 27<sup>th</sup> September, 2014, five calls had been received.
- 4.9 Andy Green, a local resident, stated that his family and neighbours have been adversely affected by the Pointing Dog. He gave a powerpoint presentation which showed Dover Road and his home in relation to the premises. He stated that he had lived at his address for eight years and for the most part enjoyed living there but the current situation was untenable and that he had been making calls to 101 for the last 12 months. He outlined events over a 24 hour period, beginning on a Friday afternoon with illegal parking, blocked driveways, odours from the kitchen, bottles being emptied into bins at all hours, empty glasses left around, vomit, litter

and debris. He added that at 6.30 the following morning, the bin lorry arrived to empty the bins. He further stated that, in his opinion, the glass screen at the entrance to the premises did nothing to subdue any noise from the building as it did not touch the ground and was not very high. He went on to state that he and his neighbours were unable to open bedroom windows during warm weather but accepted that not all the noise was from the Pointing Dog.

- 4.10 Andy Green referred to the owners' contention that this was a well-run, responsible business, but stressed that there was no evidence of this. He stated that he had been in dialogue with the Pointing Dog when it first opened over noise issues and this had resulted in the screen being erected and although he had been in dialogue with them since this, nothing tangible had become of it and he proposed that a meeting should be held between all parties to try and resolve the issues.
- 4.11 Marika Puglisi, a resident of Dover Road, stated that she had rung the 101 service every weekend during the summer and on one occasion, an Environmental Health Officer had arrived at 1.00 a.m. and took noise readings from her bedroom. At the time there was approximately 150 people stood outside the premise, talking or shouting and feels that this is totally unacceptable.
- 4.12 Marian Watson commented that she lives on Wilson Road and her property is adjacent to the Pointing Dog. She stated that her main concerns were that since April, following the completion of the extension works to the premises, the extractor fan above the kitchen area was switched on and this produced a rumbling noise which varied from time to time and subsequently she had been unable to enjoy her garden area because of it and the cooking odours from the kitchen filled her home.
- 4.13 John Gaunt, acting on behalf of Java Joe Limited, stated that the premises had historically traded as The Dover Road Polish Club which had ceased trading and fallen into some disrepair. He added that in May, 2013 the applicant applied to re-licence the premises on identical terms as those previously enjoyed and subsequently renovated the building. Since re-opening in May 2014, the premises have traded strictly in accordance with the conditions on the Licence, including the condition that the premises operate a membership scheme which they have done quite successfully. He stated that following a period of trouble free trade, it was decided to apply to extend the terminal hour, three nights per week, which will not be dissimilar to other premises operating in the area. He added that ever since the premises had been redeveloped, the applicant has been confronted by local hostility, and despite attempts to meet up with residents to discuss the issues, the offer had not been taken up.
- 4.14 John Gaunt further stated that the applicant had made enquiries of South Yorkshire Police to establish if there had been any cause for complaint, to which the Police had confirmed that no complaints had been received by them.
- 4.15 John Gaunt then introduced Richard Wood, a private investigator, employed by the applicant to undertake covert surveillance of the premises.

- 4.16 Richard Wood informed the Sub-Committee that he has no connection with Java Joe Limited, or the firm of Solicitors acting on their behalf, and that he was acting independently without bias to the Applicant. He stated he had surveyed the area on two occasions, the 9<sup>th</sup> and 10<sup>th</sup> August, 2014, stating that Saturday, 10<sup>th</sup> August was the busiest of the two days along Ecclesall Road due to the warm weather on that day. He recalled seeing Mr. Round on the same night along Dover Road. In his report to the applicant, Mr. Wood stated that there was no music emanating from the premises and the only sound was the general murmur of people talking. He further stated that motor vehicles travelling up and down Ecclesall Road could be heard and occasionally music from other establishments. He had observed up to 15 taxis waiting at any time and clients could leave the premises and walk straight into a taxi, therefore a queue never formed to cause nuisance or obstruction and there were no any instances of aggressive, unruly or anti-social behaviour by any persons leaving the Club. He also observed the doormen at the entrance to the Club talking to customers, checking ID and membership and also, just before midnight, informed them that last orders had been called and they might be unable to get another drink and telling all clients to leave the premises quietly.
- 4.17 John Gaunt suggested that not all objectors to the application lived within the area but is aware that there is a wider concern about the night time environment along Ecclesall Road and this application is not intended to create any further public nuisance.
- 4.18 In response to questions from Members, John Gaunt stated that the club has 10,000 members, that a loyalty scheme is in operation and that not everyone who turns up will be accepted due to age and dress. He added that the applicant holds a database with members' details, email addresses where available and a membership card is provided.
- 4.19 In response to further questions from Members, Phillip Roberts stated that the gate to the rear of the premises is monitored by CCTV and checked regularly by staff. He said that the premises could hold up to 800 patrons at any time, but two out of the three areas are given over to diners. He added that meals have to be ordered by no later than 10.00 p.m.
- 4.20 In response to questions from the objectors, John Gaunt stated that there was no particular reason why the equipment test was carried out on a Monday night but it was indicative and that noise from traffic travelling along Ecclesall Road was predominantly higher. He stated that the premises are run as a proprietary club and totally different to the former Polish Club. Relating to questions regarding the report of the private investigator, Richard Wood stated that he had carried out his surveillance over a seven hour period and was requested to provide a snapshot of the area.
- 4.21 John Gaunt summed up by stating that he knew there would be objections to the application which is why independent advice was sought and is disappointed to learn that five complaints had been received by the 101 service, but the Club had not been made aware of them. If they had, maybe the applicant would have had the opportunity to address the issues. He added that he feels the impact of the

Pointing Dog Club in the local area is very limited and that the Club is run responsibly.

- 4.22 Matt Proctor reported on the options open to the Sub-Committee, as outlined in the report.
- 4.23 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.
- 4.24 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.25 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.26 RESOLVED: That the Sub-Committee agrees to the variation of the Premises Licence in respect of the Pointing Dog Clubhouse, 516 Ecclesall Road, Sheffield S11 8PY, in the terms requested and subject to the additional conditions as follows:-
- (a) no persons shall be admitted/re-admitted to the premises after midnight;
  - (b) no alcohol will be consumed in the external area after 00:30 hours and 01:30 hours Thursday to Saturday; and
  - (c) no alcohol shall be consumed in the external area after 01:00 hours and 01:30 hours on bank holiday weekends and other special dates.

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