

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 10 May 2022

PRESENT: Councillors David Barker (Chair), Lewis Chinchen and Sioned-Mair Richards

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1. APOLOGIES FOR ABSENCE

1.1 There were no apologies for absence. Councillor Ruth Milsom 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 - THE DEVONSHIRE CAT, 49 WELLINGTON STREET, SHEFFIELD, S1 4HG

4.1 The Chief Licensing Officer submitted a report on an application made under Section 17 of the Licensing Act 2003 for the grant of a premises licence in respect of the premises known as The Devonshire Cat, 49 Wellington Street, Sheffield S1 4HG (Ref No. 74/22).

4.2 Present at the meeting were Liaquat Khan (Applicant), Tim Shields (John Gaunt and Partners, Solicitors) (for the applicant), Peter Sephton (Chair, ChangingSheff), Jayne Gough (Licensing Strategy and Policy Officer), Samantha Bond (Legal Adviser to the Sub-Committee) and John Turner (Democratic Services).

4.3 Samantha Bond 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 had been received from Peter Sephton, a local resident, on behalf of ChangingSheff, and were set out at Appendix "C" to the report. Ms Gough added that representations had also been received from South Yorkshire Police, but had subsequently been withdrawn following the agreement of a number of conditions with the applicant, which were set out at Appendix "B" to the report.

- 4.5 With the approval of Mr Shields and the Sub-Committee, Peter Sephton circulated photographs of the premises and surrounding buildings, and stated that, as part of the development works currently taking place in the city centre, there were currently around 25,000 people living within the inner-ring road. Also, with further approval, he circulated a Changing Sheff information leaflet. Whilst ChangingSheff, the representative group for city centre residents, welcomed the development, and considered the city centre a great place to live, it considered that there was now an onus on the Council to listen to the concerns of local residents who were being adversely affected by noise nuisance in the early hours of the morning. Mr Sephton stated that the premises were surrounded by residential accommodation, and for this reason, he believed that they should not be allowed to open until 03:00 hours. Whilst he accepted that the premises had been allowed to open until 03:00 hours under the terms of the previous licence, which had since lapsed, this was a new application, and the circumstances, mainly relating to the increase in the city centre population, had changed. He stated that, as well as the existing residential accommodation surrounding the premises, Kangaroo Works, a new 364 apartment block, situated close by, was due to open later in 2022. Mr Sephton concluded by requesting the Council to consider implementing new licensing criteria regarding the night-time economy, given the large increase in the number of residents now living in the city centre.
- 4.6 In response to questions from Members of, and the legal adviser to, the Sub-Committee, and Tim Shields, Mr Sephton stated that whilst he accepted that the premises had opened until 03:00 hours under the previous licence, he considered that due to the increase in the number of residents in the surrounding area, there was now a need to consider the opening hours of such premises. He believed that 12:00 hours would be more reasonable, and would provide a better opportunity for local residents to have a reasonable night's sleep. ChangingSheff was a representative group of city centre residents, and had formerly been known as Sheffield City Centre Residents Action Group (SCCRAG), which had formed in 2012. The group, which received funding from the Council and the Business Improvement District, changed its name to ChangingSheff in 2017. The group met regularly to discuss residents' concerns and to look at projects and initiatives to improve the city centre. The main change in the area since the previous licence had lapsed was the development of Kangaroo Works, which was situated just under 100 metres down the road from the premises. Whilst the group had not objected to the original licence application for the premises, it now believed that given the fact that there was residential accommodation on three sides of the premises, as well as above, and with the new Kangaroo Works development opening later in 2022, the latest opening time should be 12:00 hours. The group had not been approached by any residents in terms of changes in the area within the vicinity of the premises since the lapse of the previous premises licence. However, residents were still suffering noise nuisance from people leaving restaurants, bars and nightclubs in the city centre. Mr Sephton stated that he had lived in the city centre for 17 years, and whilst the group had not received any specific complaints about The Devonshire Cat, it had received complaints of noise nuisance linked to the collection of industrial waste from other licenced premises nearby. Whilst the group welcomed the re-opening of The Devonshire Cat, it objected to the

premises opening until 03:00 hours. The group wanted the Council to restrict the opening hours of all new premises to 12:00 hours due to the expanding residential population in the city centre. Mr Sephton was aware of other licenced premises in the immediate vicinity, namely Corporation and The Washington, both of which opened until the early hours of the morning, but considered that, as this was a new application, this was the time for the Council to consider residents' right to a reasonable night's sleep.

4.7 Tim Shields, for the applicant, referred to the application set out in the report, specifically to page 16, which summarised the application for the premises licence. He stressed that the previous licence had not lapsed due to any enforcement action, but it was believed that it had been a victim of the Covid-19 pandemic. The premises had been constructed in 1999, with planning permission for residential accommodation above. The photographs circulated at the meeting highlighted the fact that there was residential accommodation above, as well as surrounding the premises, and that such accommodation had been there for a significant period of time. The premises had operated for many years without any issues, and whilst the applicant appreciated the problems being faced by some residents living within the immediate vicinity, there had been no concerns raised with regard to the premises. Mr Shields stated that the application was very similar to the previous premises licence, with the addition of further conditions, set out on pages 23 and 24 of the report. Mr Khan had significant experience in the licencing trade, owning other licenced premises in the city. All the responsible authorities had been informed of the application and apart from South Yorkshire Police, whose representations had been withdrawn following the agreement of conditions with the applicant, none of the other authorities had raised any concerns. Mr Shields referred to the representations from ChangingSheff, stating that they focused on the wider problems of noise nuisance in the city centre, and not on the premises themselves. He stressed that no residents of the flats, either above or surrounding the premises, had made any complaints of noise nuisance linked to The Devonshire Cat. He stated that there was therefore no evidence to suggest that the application would undermine any of the four licensing objectives. Mr Shields added that the opening hours would be no later than those of the Corporation or The Washington. He concluded by referring to the fact that he had sent a copy of the previous premises licence, which had been circulated to Members of the Sub-Committee.

4.8 In response to questions from Members of, and the legal adviser to, the Sub-Committee, and Peter Sephton, Mr Shields stated that whilst door staff may have been employed at the premises, this had never been a requirement of the premises licence. The other licenced premises owned by the applicant were the Wick at Both Ends, in the city centre, and the Cherry Tree, in the Carterknowle area. He also had unlicensed property interests in the city. Mr. Khan had held premises licences for over 30 years, so had significant experience in the licencing trade. The premises would be tenanted out, and there had been a number of expressions of interest from operators with good track records within the city. There had never been any issues regarding noise nuisance at the premises since it was constructed in 1999, with regard to both local residents or the responsible authorities. The applicant would ensure that the new tenants

were reputable, and that consideration would be given to the termination of the lease if any serious problems arose. Mr Shields was not aware of any other problems with the tenants at The Wick at Both Ends. The applicant would be willing to offer a contact phone number for residents to call with any problems. The applicant has requested the opening hours of up to 03:00 on the basis that other licenced premises in the surrounding areas had similar opening hours, and that it would provide him with flexibility in terms of financial viability. In addition, the premises had operated with similar opening hours under the previous licence, without any problems. It was likely that the premises would not remain open until 03:00 hours every night of the week, but the applicant wanted the flexibility if the demand was there. The only involvement of the Health Protection Service was that they had requested that the premises be deep cleaned, having been closed for a few years. Whilst anyone would be welcome at the premises, the applicant's other premises tended to attract a more mature clientele. Mr Shields did not agree that the city centre was becoming predominantly residential, indicating that, similar to other major cities, there was a mix of commercial and industrial businesses, office accommodation and leisure facilities, as well as residential accommodation. Jayne Gough confirmed that notices advertising all licence applications were required to be posted either on, or within the immediate vicinity of, the premises and Mr Shields confirmed that four or five notices had been posted by the applicant.

- 4.9 In summary, Mr Shields stated that the premises would be a welcome addition to the area, and that there had been no history of any problems at the premises since it opened. He referred to the fact that, despite the representations made by Mr Sephton, on behalf of ChangingSheff, which mainly referred to the cumulative impact of licenced premises in the city centre, the Council did not have a cumulative impact policy, therefore could not consider this as part of the application. Mr Shields then referred to various aspects of the licensing guidance, regarding the application and the powers of the Sub-Committee. He also referred to the Thwaites case, indicating that the Sub-Committee could not make judgement over "fear" of a premises causing nuisance.
- 4.10 Jayne Gough outlined the options available to the Sub-Committee.
- 4.11 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.
- 4.12 Samantha Bond reported orally, giving legal advice on various aspects of the application.
- 4.13 RESOLVED: That, in the light of the information contained in the report now submitted, and the additional information circulated at the hearing, together with the representations now made and the responses to the questions raised, approval be given for the grant of a premises licence, in accordance with the modified operating schedule, in respect of the premises known as the

Devonshire Cat, 49 Wellington Street, Sheffield S1 4HG (Ref No. 74/22, subject to the addition of the following condition:-

A direct telephone number for the manager, or other such person in charge at the premises, shall be made available to residents within the vicinity.

(NOTE: The full reason for the Sub-Committee's decision will be set out in the written Notice of Determination.)