

**SHEFFIELD CITY COUNCIL**

**Licensing Sub-Committee (Statutory)**

**Meeting held 21 February 2023**

**PRESENT:** Councillors David Barker (Chair), Lewis Chinchon and Maroof Raouf

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**1. APOLOGIES FOR ABSENCE**

1.1 No apologies for absence were received. Councillor Denise Fox attended 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 BRASS MONKEY, 185 MIDDLEWOOD ROAD, SHEFFIELD, S6 4HD**

4.1 The Chief Licensing Officer submitted a report to consider an application, made under Section 34 of the Licensing Act 2003, for the variation of a premises licence in respect of the premises known as The Brass Monkey, 185 Middlewood Road, Sheffield S6 4HD (Ref No.28/23).

4.2 Present at the meeting were Martin McGrail (Applicant), Neal Pates (Environmental Protection Officer), Shimla Finch (Licensing Strategy and Policy Officer), Carol Curtin (Legal Advisor to the Sub-Committee) and Jennie Skiba (Democratic Services).

4.3 The Chair outlined the procedure which would be followed during the hearing.

4.4 Shimla Finch presented the report to the Sub-Committee, and it was noted that representations had been received from the Environmental Protection Service and two local residents and were attached at Appendix 'C' to the report. The local residents had been invited to attend the meeting but had submitted their apologies as they were unable to attend. An email received from the residents setting out their objections, had been received by the Licensing Service and a copy of this was circulated to Members and a copy provided to the applicant, at the start of the meeting.

4.5 Neal Pates stated that the Environmental Protection Service main objection was to the removal of condition 5, on the basis of likely public nuisance from the playing of amplified sound being audible in the residential accommodation adjoining the premises. He said that the premises had a significant and repeated history of noise

nuisance complaints, primarily from the occupiers of the dwelling above the premises. Neal Pates said that in correspondence received from the applicant, the applicant had implied that the complaints from the current resident were oversensitive and possibly malicious. Neal Pates stated that complaints of noise nuisance had also been received from previous residents. He stated that due to the age, structure and physical aspect of the building, extensive works would need to be carried out and he was of the view that the poor sound insulation between the premises and the dwelling above meant that amplified sound could not be played on the premises without being clearly audible in adjoining premises and would, therefore, contribute to public nuisance. He said that planning consent had been granted with pre-commencement planning requirements to implement an approved scheme of sound insulation works. However, the applicant commenced trading without carrying out the works. The issue was later resolved, and a noise validation test was carried out. However, the validation report was not required to include any testing with amplified sound being played on the premises, as the premises licence required that no live or recorded music be played at the premises. Neal Pates said that the Manager of the premises had changed, and the applicant had agreed that there would be no future incidents of excessive noise. He said the applicant intended to install a sound limiter, however, the device would monitor the sound level in a room using a microphone, which could interrupt the power supply to the sound source if a pre-set threshold sound level was exceeded by customer voices and other general bar noise. He said that the applicant had suggested that the limiter would be set at 60dB, which would not be practical as the ambient sound level in the premises would cause the device to cut power erratically. By setting the trigger threshold higher, the music sound level would no longer be limited to the background music. Neal Pates felt therefore that it would not be appropriate to remove Condition 5 on the premises licence.

4.6 In response to questions from Members of the Sub-Committee, Neal Pates said that the investigation into the complaints of noise nuisance had not closed, but there had not been any more complaints over the past couple of months since there had been a change in management. Neal Pates said that complaints received in 2018 had been more of a general trading nature, doors banging, table and chairs being moved, barrels being changed etc., and the sound insulation works that had been carried out were not adequate enough to reduce noise nuisance. The floor of the flat above was just floorboards, not enough to reduce noise. With regard to noise coming from the television positioned on the wall, the wording of the Condition was quite clear stating that amplified music should not be played, which was quite different to noise emanating from a wall mounted television, However, if music was to be played via a music channel on a television, this would then constitute a breach in the condition.

4.7 Martin McGrail stated that there had never been any complaints relating to sporting events being played through the television but there had been from use of the music channel. He said that previous complaints had been made before the pre-planning sound insulation works had been carried out and that since then, he had always tried to work with local residents. He said that following the latest complaints, he had checked CCTV and found that staff were playing music through "Alexa". He had changed managers due to such matters and taken on board what the residents had said. Martin McGrail said that he had contacted the Licensing Service and had been

advised to carry out sound attenuation works and apply for a variation to the licence. He said that since September last year, he had been more “hands on” at the premises and by getting in the right staff, any problems would be alleviated.

- 4.8 In response to questions from Members of the Sub-Committee, Martin McGrail said that when the residents had approached the manager and asked him to turn the music down, the manager unfortunately thought that he could do whatever he wanted, and he has now been released due to his attitude. With regard to the tables and chairs outside the premises, Martin McGrail said they were there until 9.00 p.m. each night, and the regulation allowing this, pre-covid, was due to end possibly at the end of this year. He said he would carry out further sound attenuation works and contact by the Licensing and Environmental Protection Services for them to carry out tests. He said that he did not intend for loud music to be played, just background music. Martin McGrail summed up by stating that he wanted to work with his neighbours and was prepared to look at all options.
- 4.9 Shimla Finch reported on the options available to the Sub-Committee.
- 4.10 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting, and the webcast be paused, 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.
- 4.11 Carol Curtin reported orally, giving legal advice on various aspects of the application.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees, and the webcast was recommenced.
- 4.13 RESOLVED: That, in the light of the information contained in the report now submitted, together with the representations now made and the responses to the questions raised, approval be given for the variation of a premises licence in respect of the premises known as The Brass Monkey, 185 Middlewood Road, Sheffield S6 4HD (Ref No.28/23), as follows:-
- (a) the removal of Condition 9; and
  - (b) Condition 5 to remain in place, but the Applicant be advised that he may reapply to remove Condition 5 once the sound attenuation works have been carried out to the satisfaction of the Licensing and Environmental Protection Services.
- (NOTE: The full reasons for the Sub-Committee’s decision will be included in the written Notice of Determination).

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