

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 10 September 2013

**PRESENT:** Councillors Clive Skelton (Deputy Chair), Adam Hurst and Nikki Sharpe

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

1.1 An apology for absence was received from the Chair (Councillor John Robson).

#### **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 BASEMENT, 102-104 WEST STREET, SHEFFIELD, S1 4EP**

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 The Basement, 102-104 West Street, Sheffield, S1 4EP.

4.2 Present at the meeting were Chris Grunert (John Gaunt, Solicitors, for the applicant), Peter Clifton (Applicant), Michael Dean (Designated Premises Supervisor), Rachael Jacob, Martin Lawlor and Julie Wilson (Objectors), Louise Thomas (Environmental Protection Service), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Carolyn Forster outlined the procedure which would be followed during the hearing.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that representations had been received from four members of the public, and were attached at Appendix 'C' to the report, and that the representations submitted by the City Council's Environmental Protection Service had been withdrawn following the acceptance of a number of suggested conditions by the applicant. Two members of the public attended the hearing to put forward their representations.

4.5 Julie Wilson stated that she had lived in her 5<sup>th</sup> floor apartment in Morton Works for eight years and whilst she was not affected so much by noise nuisance from The Basement, her concerns related mainly to the gradual increase in anti-social behaviour in and around the entrance to Morton Works. She stated that there were very few problems, if any, when the premises operated as a wine bar some years ago, but the change to a "cheaper" drinking establishment resulted in an increase

in problems of noise nuisance and anti-social behaviour. The bar then closed and residents of Morton Works noticed an improvement, but when The Basement opened, the problems started up again. She stated that the only access to the apartments within the building was a few yards from the entrance to The Basement, and problems were caused when the premises Door Supervisors moved customers away from the entrance of the bar as they would then often congregate in and around the entrance to Morton Works. People who came out of the premises to smoke would often congregate in the entrance area and some had "tailgated" residents into the building in order to shelter from bad weather. There had also been an increase in vomit and other matter deposited in the entrance, particularly at weekends, and this had increased dramatically since the bar had recently re-opened. Ms Wilson stated that she considered that the premises management did not appear to be a responsible neighbour and that they should be more aware of the needs and rights of residents of Morton Works.

4.6 Rachael Jacob stated that she objected to the extended opening times on the grounds that the residents of Morton Works would be subjected to noise nuisance later into the mornings and an increase in anti-social behaviour from customers visiting the bar. She stated that most of the other bars in the area closed earlier than 03:00 hours, apart from West Street Live, which had no residential accommodation next door or above. She referred to the planned attenuation measures, indicating that the proposed extension of hours should not be granted until such works had been completed and proved to be effective. Ms Jacob also raised concerns regarding customers of The Basement hanging around the entrance to the apartments, creating problems for residents in terms of how some of them used the area as a toilet and a place to vomit, as well as it being very intimidating for residents when having to walk past them to get into the building. She made reference to the conditions which had been agreed between the applicant and the Environmental Protection Service, specifically to the required actions of the Door Supervisors, indicating that she was not confident that this would make any difference as the staff should be moving customers away from the entrance to Morton Works now. She also referred to the anti-social behaviour she had witnessed around the garage entrance in the lane at the rear of Morton Works, which is overlooked by her apartment.

4.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Chris Grunert, Rachael Jacob stated that whilst she could cope with the noise from the premises to some extent on Friday and Saturday, she objected to the plan to extend the opening hours to 03:00 hours every day of the week. Julie Wilson stated that she had contacted the '101' number on about three occasions, to report problems of customers from the bar either congregating in the entrance to Morton Works, or 'tailgating' residents into the building, with the last call being made during the Tramlines Festival, on 21<sup>st</sup> July 2013. Ms Jacob stated that she could not recall the number of times she had complained about noise nuisance and anti-social behaviour, but stated that the last call she had made was about two months ago. She had met with staff from the premises to discuss her concerns, as well as meeting with officers from the Environmental Protection Service to discuss the issues of noise nuisance. She stated that the situation normally improved after such meetings, then would usually deteriorate shortly afterwards. The objectors confirmed that they were not part of a constituted Residents' Association, which

was mainly due to the fact that a high number of residents in the apartments were transient and/or did not wish to get involved in any such organisations. Ms Jacob recognised the intentions behind No. 8 of the agreed conditions, relating to the requirement for sound attenuation works to be carried out to the satisfaction of the Environmental Protection Service prior to any regulated entertainment taking place beyond the existing permitted times. In terms of linking the noise nuisance and anti-social behaviour directly to the premises, Ms Wilson stated that when the premises were not operating, there were no such problems, and the problems started again when the venue opened as The Basement, meaning that there was a direct link to the issues complained of, and the premises. She added that she had witnessed door staff moving people away from the entrance to Morton Works. Regarding the additional evidence circulated by the applicant's Solicitor, relating to a number of new policies to be adopted, in response to the objectors' concerns, Ms Wilson stated that whilst she welcomed the efforts being made, she was not confident that it would solve all the problems. Whilst Ms Wilson accepted that she had had no direct contact with the premises to discuss the issues, she had spoken to a cleaner, and asked if she could clean the entrance to the apartments. She did consider that the additional measures planned to be undertaken, as now circulated, represented the actions of a good neighbour, but only if such policies were adhered to. Ms Jacob stated that she had only received one of the letters which had purported to have been sent to all residents of Morton Works from the premises management and that the most recent call she had made in terms of a complaint was to the '101' number as she had become frustrated at the lack of action following calls to, and contact, with the premises management. Ms Wilson confirmed that she had received two letters sent to residents and that all her calls in terms of complaints about the premises (three in total) had been exclusively to the '101' number.

- 4.8 Chris Grunert put forward the case on behalf of the applicant, referring to the three elements of the proposed variation to the Premises Licence, which included changes to the layout of the premises, the removal of a number of historical/defunct conditions on the existing Licence and the extension of the trading hours. He appreciated the concerns raised by the objectors, regarding the extension of trading hours, indicating that there would still be a number of bars in the area with later opening hours and that the bar would not necessarily be open until 03:00 hours every morning. He stated that the applicant had knowledge and experience of the trade as he owned a number of other licensed premises in the City. He referred to the conditions agreed with the Environmental Protection Service prior to the hearing and stated that, as well as there being continuing dialogue between Louise Thomas, Environmental Protection Service, and the applicant in connection with the conditions, discussions were also being held with Ms Jacob in connection with the monitoring of the noise nuisance. He believed that the proposed noise attenuation measures would help to resolve the problems being faced by residents and stressed that no regulated entertainment would take place beyond the existing permitted times until such works had been carried out to the written satisfaction of the Environmental Protection Service. In terms of addressing the objections now raised by local residents, Mr Grunert stated that due to Morton Works' City Centre location, there was always likely to be an element of noise nuisance and other disturbance, but he was confident that the agreed conditions and the planned policies and procedures, now circulated, would help to

address the residents' concerns, as well as providing the necessary flexibility for the premises to manage the issues. He made reference to the letters sent to residents and the notices affixed in the lobby area of Morton Works, which aimed to keep residents up to date in terms of the operation of the premises. As a further means of addressing the residents' concerns, and as a way of maintaining communication with residents of Morton Works, the applicant had also planned to open the premises on the first Friday of each month, between 18:00 and 20:00 hours, to enable residents to discuss any concerns or issues they had, and also provide residents with a mobile phone number and email address, which they could use to report any issues or problems. He stated that the agreed conditions and planned policies would address the issue of customers congregating at the entrance to Morton Works, with arrangements to be made for Door Supervisors to monitor this situation initially and, if there were further problems, the Security Industry Association (SIA) staff would be called, as well as the Police if required. Mr Grunert stated that, whilst he accepted that some of the problems raised by the objectors were linked to the premises, there was no clear evidence that the anti-social behaviour, particularly in the lane to the rear of Morton Works, was caused solely by customers from The Basement. He stated that the applicant would be happy to become a member of a residents' association if one was established and concluded by stating that the premises was not responsible for contributing to, or causing, anti-social behaviour in the area, any more than any of the other bars within the immediate vicinity.

- 4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee and Julie Wilson and Rachael Jacob, Mr Grunert stated that there was an acoustics report on the premises and, whilst it was not attached to the report, copies could be made available if requested. He added that not every apartment in Morton Works was affected by the noise from the premises and referred to the specific problems experienced by Ms Jacob, indicating that as her apartment was situated next to a lift shaft, the sound travelled up from the premises, through the shaft. The planned works to remedy this situation would take place as soon after the licensing and planning approvals had been granted. It was stated that the CCTV system would enable the premises management to monitor the problems of customers congregating at the entrance to Morton Works. Mr Grunert stated that, subject to the decision at this hearing, although the premises could open until 03:00 hours, it was not expected that they would open until this time every morning. The premises would open until this time at weekends and on Wednesdays, when they hosted a student night, and the opening times on the other nights would depend on demand. He confirmed that, as set out in No. 23, Annexe 2 – Conditions consistent with the operating schedule - prominent, clear and legible notices, requesting the public respect the needs of local residents by leaving the premises and area quietly, were displayed at all exits at the premises. In terms of the policies circulated at the hearing, Mr Grunert stated that there was a managed smoking area outside the premises at the present time. As the bar was considered more of a link in a circuit of other bars, there were rarely problems with regard to significant numbers of customers hanging around at closing time, therefore, prior to the objections being received from the residents, the problems caused by customers congregating in the entrance to Morton Works had not been perceived as a major issue. However, following the residents' concerns, the new policies should hopefully address this, and customers would be moved further

away from the premises. If the variation was granted, it was proposed that there would be two Door Supervisors monitoring the external area at weekends and Wednesdays, and one Supervisor on duty for the other days of the week. With regard to the offer of a mobile phone number and email address being available for residents to contact premises management to raise any concerns, Mr Grunert stated that it would be the responsibility of Michael Dean, Designated Premises Supervisor, to ensure that the phone and computer were checked on a regular basis. One of the new policies would include improved management of the smoking area and customers would not be allowed to take their drinks outside when using this area. In terms of the cleaning of the entrance to Morton Works, it was proposed that the requirement to monitor this would be included in the Door Supervisors' job description and in addition to this, this requirement would also be included on a 'close down' list, which would comprise a number of jobs to be undertaken at closing time. In terms of the regular monthly meetings between premises management and residents, it was hoped that the residents would become aware of the regularity of such meetings and attend if and when necessary. Mr Grunert stated that ideally, it would be preferable if the residents formed a constituted residents' association in order to assist with dialogue between themselves and the premises. Mr Grunert was unable to comment as to whether there were other bars with late opening hours situated within residential buildings in the City, but stated that he was aware of other late bars with residential accommodation nearby. Whilst it may not be possible to resolve all the issues raised by the residents, the premises management would do everything within their power in an attempt to address the issues as best they can. The premises management have not identified the anti-social behaviour around the garage entrance in the lane at the rear of the premises as a major issue, but they would monitor the situation and review, on a case by case basis, whether it would be safe sending their Door Stewards to investigate or monitor any reported incidents.

- 4.10 Chris Grunert summarised the case on behalf of the applicant.
- 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 Carolyn Forster reported orally, giving legal advice on various aspects of the application.
- 4.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.14 RESOLVED: That the Sub-Committee:-
  - (a) agrees to grant a variation to the Premises Licence in respect of the Basement, 102-104 West Street, Sheffield, S1 4EP, in the terms requested and subject to the conditions agreed between the applicant and the Environmental Protection Service, as detailed in the report;

- (b) accepts that the Policies now circulated on behalf of the applicant should be incorporated into the premises Operating Schedule; and
- (c) recommends that (i) regular meetings be held between premises management and residents, along the lines now reported and (ii) a mobile phone number and e-mail address be made available for residents to report any issues or concerns regarding the operation of the premises.

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