

SHEFFIELD CITY COUNCIL Licensing Sub Committee Report



Report of: Chief Licensing Officer, Head of Licensing

Date: Monday 26th September 2022 – 11am (Deferred from 6th Sept 2022)

Subject: Licensing Act 2003

Author of Report: Jayne Gough

Summary: To consider an application to vary a premises licence made under the Licensing Act 2003.

Dodona (fka Otto's) 344 Sharrow Vale Road, Sheffield, S11 8ZP

Recommendations: That members carefully consider the representations made and take such steps, as the Sub Committee consider necessary for the promotion of the Licensing Objectives.

Background Papers: Attached documents
[Sheffield City Councils Statement of Licensing Policy](#)

Category of Report: OPEN

**REPORT OF THE CHIEF LICENSING OFFICER
(HEAD OF LICENSING) TO THE LICENSING SUB COMMITTEE
LICENSING ACT 2003**

Ref No: 111/22

Dodona (fka Otto's) 344 Sharrow Vale Road, Sheffield, S11 8ZP

1.0 PURPOSE OF REPORT

1.1 To consider an application for the Variation of a premises licence made under Section 34 of the Licensing Act 2003.

2.0 THE APPLICATION

2.1 The applicant is Adriatik Likaj.

2.2 The application was received by the Licensing Service on the 9th June 2022, and is attached to Appendix 'A' of this report.

2.3 A copy of the current Premises Licence is attached at Appendix 'B'.

2.4 This case was originally listed to be heard on the 2nd August 2022, but due to ongoing issues with the Health Protection and Environmental Protection Services which should have been alleviated with new plans, the hearing has been deferred on two occasions.

2.5 Unfortunately, the works and subsequent plans have still not been submitted or agreed, and the issues raised within the representation of the Health Protection Service remain in place.

2.6 Conditions have now been agreed with the Environmental Protection Service which has allowed their representation to be withdrawn. These are detailed in the report at Appendix 'C'.

3.0 REASONS FOR REFERRAL

3.1 An outstanding representation concerning the application has been received from the following Responsible Authority and is attached at Appendix 'D'.

1 x Health Protection Service

3.2 The applicant and objector who have made a written representation have been invited to attend the hearing. Copies of the front page of the notices are attached to this report labelled Appendix 'E'.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no specific financial implications arising from this application. However, additional costs may be incurred should the matter go to appeal. In such an

eventuality it may not be possible to recover all these costs. The impact of these additional costs (if any) will be kept under review and may be subject of a further report during the year.

5.0 THE LEGAL POSITION

5.1 The Licensing Act 2003 at section 4 (1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which section 4(2) sets out as:

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance;
- d) the protection of children from harm.

5.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

6.0 HEARING REGULATIONS

6.1 Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.

6.2 The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act as set out at Appendix 'E'.

6.3 Attached at Appendix 'E' is the following:

- a) a copy of the Notice of Hearing;
- b) the rights of a party provided in Regulations 15 and 16;
- c) the consequences if a party does not attend or is not represented at the hearing
- d) the procedure to be followed at the hearing.

7.0 APPEALS

7.1 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations against decisions of the Licensing Authority to the Magistrates' Court.

8.0 RECOMMENDATIONS

8.1 That Members carefully consider the representations made and take such steps as the Sub-Committee consider appropriate for the promotion of the Licensing Objectives.

9.0 OPTIONS OPEN TO THE COMMITTEE

9.1 To vary the premises licence in the terms requested.

9.2 To vary the premises licence with conditions.

9.3 To reject the whole or part of the application.

Steve Lonnie

Stephen Lonnie
Chief Licensing Officer & Head of Licensing

26th September 2022

Appendix 'A'

The Application

Appendix 'B'

Current Premises Licence

Appendix 'C'

**Agreed Conditions:
Environmental Protection Service**

Dear Jonathan

Further to our telephone conversation on the 31st August, I hope you have had a good couple of days.

I believe that we have agreed conditions in relation to the premises and these will be as follows:

- **Amplified sound or live music shall only be played within the building and in such a way that noise breakout does not exceed the prevailing ambient noise level by more than 3dB when measured at the boundary of the site;**
 - a) **as a 15 minute LAeq, and;**
 - b) **at any one third octave band centre frequency as a 15 minute LZeq**
- **No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiter, the design and settings of which shall have received the prior written approval of the EPS.**
- **No loudspeakers shall be fixed externally nor directed to broadcast sound outside the building at any time.**
- **Customers' use of external area for seated dining or drinking purposes shall cease at 21:00hrs. After this time, customer access to the ground floor outside areas shall be for smoking purposes only.**
- **Doors and windows to be closed when regulated entertainment is undertaken.**

Appendix 'D'

**Outstanding Representations:
Health Protection Service**

Health Protection Service Representation (and associated correspondence):

17.06.2022

This emailed representation is made in accordance with the agreement with the Licensing Authority on the 18th October 2006 to accept representations by email

Dear Michelle Hazelwood

RE: 706929-30 Ottos, 344 Sharrow Vale Road - Variation Application

I refer to the application concerning the above premises as a responsible authority towards public safety I am making a formal representation due to internal proposed layout and arrangements shown on the plan which are unsatisfactory.

I would appreciate if you could provide a 1:100 scale drawing of the plan and arrange a meeting with the applicant and/or his architect to discuss the plans in more detail. As my previous email please let me know about the asbestos survey.

Yours sincerely,

Elaine Cresswell

Environmental Health Technician/Health & Safety Inspector, Environmental Regulation, Sheffield City Council, 5th Floor North, Howden House, 1 Union Street, Sheffield, S1 2SH

Tel: 0114 474 1449 (currently working out of office – please use email)

Email: elaine.cresswell@sheffield.gov.uk

Fax: 0114 273 6464

www.sheffield.gov.uk

From: Elaine Cresswell

Sent: 17 June 2022 12:32

To: Michelle Hazlewood CBII <MHazlewood@john-gaunt.co.uk>

Subject: 706929-30 Ottos, 344 Sharrow Vale Road - Variation Application

Dear Michelle Hazlewood,

706929-30 Ottos, Sharrow Vale Road - Variation Application

I represent Sheffield City Council's Health and Safety Enforcement Team in the Health Protection Service as Responsible Authority for Public Safety for this application.

I note from the documents that major refurbishment is planned/taking place at the premises and would like to check with you if the premises was built before the year 2000. If this is the case can you please advise me if an asbestos renovation survey has been carried out as I will need to know this.

There are two types of asbestos survey:

- Asbestos Management Survey - This type of survey is for managing asbestos in the premises where major change is not being carried out.

- A Refurbishment & Demolition Survey – where full access, sampling and identification is required. This type of survey is normally recommended prior to demolition or major refurbishment work commencing in the survey area to identify all asbestos containing materials to be removed as far reasonably practicable before major refurbishment or final demolition.

Kind regards

Elaine Cresswell

Environmental Health Technician/Health & Safety Inspector, Environmental Regulation,
Sheffield City Council, 5th Floor North, Howden House, 1 Union Street, Sheffield, S1 2SH

Tel: 0114 474 1449 (currently working out of office – please use email)

Email: elaine.cresswell@sheffield.gov.uk

Fax: 0114 273 6464

www.sheffield.gov.uk

<http://www.sheffield.gov.uk/content/sheffield/home/business/health-and-safety-enforcement.html>

Supplementary information

Sheffield City Council's Statement of Licensing Policy on Public Safety states Licence holders have a responsibility to ensure the safety of those using their premises and advises applicants to undertake risk assessments in relation to the safety of customers and staff on the premises. The Policy also encourages the provision of disabled access and facilities to licensed premises when a new application is being made or when substantial alterations are taking place, reasonable provision must be made under the Equality Act 2010 for people to access and use the building and its facilities.

The design standards for venue safety referred to in the Public Safety Policy are:

- Building Regulations Approved Document M: Access to and use of buildings - Volume 2: Buildings other than dwellings (This includes ramped access design).
- BS 8300-1 2018: Design of an accessible and inclusive built environment - Part 1: External environment - Code of practice
- BS 8300-2 2018: Design of an accessible and inclusive built environment - Part 2: Buildings - Code of practice (this includes wheelchair and ambulant accessible toilet design)

Timeline

17/06/2022: Request was made to Applicant Solicitor Michelle Hazelwood for confirmation that the premises was built prior to 2000 and a risk assessment for Asbestos had been carried out prior to refurbishment.

08/07/2022: A meeting with Solicitor Michelle Hazelwood was arranged at the building site. Access to the building was not possible as there was no confirmation that a risk assessment for Asbestos had been carried out. There was discussion about the plans and what was intended in the building. It was confirmed that:

1. The planned capacity was 79 persons

2. There was no wheelchair accessible provision to the building or wheelchair accessible sanitary provision. The provision of wheelchair access and sanitary provision in accordance with Part M was requested.
3. There were numerous changes of level in the building shown on the plan for which new staircases were to be constructed. Advice was given on the dimensions required for licenced premises.
4. There were at least two rooms for guests on the first floor without windows and no information on ventilation. Advice on requirement for ventilation was provided.
5. There was an unmarked area on the first floor of the plan with fire exit which did not seem to lead anywhere. The building owner's representative stated this area was to be an external seating area on the roof of the single-story portion of the building with a fire escape stair to be built. Advice was provided that this would need to be checked by a structural engineer to confirm it was suitable and would need to be marked on the plan.
6. There did not seem to be any understanding that there would need to be building control approval for the structural changes to the premises and this would be required as a condition on the licence.

It became clear that the plan as submitted was inadequate and did not reflect what was being built. A request was made for suitable scale plans 1:100 at A4 to be produced representing what was actually being built and incorporating wheelchair access and sanitary provision in accordance with the licencing policy.

The lack of risk assessment in relation to asbestos was reported to the HSE as the building site fell to their enforcement. I understand and inspector was to visit.

26/7/22 to 24/08/22 - Various correspondence with Michelle Hazelwood summarised below:

1. Confirmation has been received that an architect has been engaged, plans are to be submitted to building control, ventilation arrangements will be made for the internal guest rooms, and space has been found for a wheelchair accessible toilet.
2. No new plans have yet been submitted to the responsible authority for public safety, so it has not been possible to assess if other risks to public safety need to be considered.
3. Staircase dimensions, ramp access gradient and structural engineers report for the terrace have not been received.
4. No confirmation has been received that either asbestos was not present, or the premises is subject to a clearance certificate to allow for a visit to the premises.

25/08/22 - Additional information and plans received from Michelle Hazelwood.

Revised Plans – these are still unsatisfactory

It is noted that 'the drawings, plans, sketches etc. are provided to our clients based upon information provided by the client and drawn in accordance with common building practices and local codes. None of the employees are registered architects, engineers or land surveyors...'

1. The stepped entrance to the premises is not shown.
2. The drawings do not show the changes in level to the fire exit to Steel Road. The temporary ramp seen at time of visit did not comply with Part M of the building regulations, and a compliant ramp or steps will need to be shown.
3. There is no indication where the goods lift terminates in the kitchen as it is not marked on the ground floor plan.
4. The bar or bars are not shown.
5. The external terrace and other rooms are not adequately identified.

6. No information on internal stair dimensions including or external stair from the terrace have been provided as requested.

I understand from the correspondence the number of internal covers is to be 60.

An asbestos survey has been submitted following action taken by the Health and Safety Executive and found to be satisfactory.

Application

There is no mention of an additional outside first floor terrace on the licence application form and it is not identified in the original drawings or identified as such on the updated plan.

Should the licensing committee be minded to grant the licence the following conditions are proposed for consideration.

1. A Building Regulation Completion Certificate shall be submitted to the responsible authority for public safety prior to opening for business.

2. A satisfactory Electrical Installation Certificate shall be submitted to the responsible authority for public safety prior to opening for business. (If an electrical condition report is provided it should cover 100% of the premises).

3. A permanent fixed residual current device (RCD) must protect the electrical power serving all amplified music equipment used for the purposes of live music or similar entertainment.

4. A structural engineers report shall be submitted confirming that the single-story roof is suitable to be used as a outdoor seating area or terrace for a dynamic load commensurate for the purpose and numbers of people using it.

5. There shall be no transportation of hot food and drinks using the public staircase between the ground floor and the first floor (whilst open to members of the public).

Report Date: 26/8/22

Author: Elaine Cresswell, Environmental Health Technician/Health & Safety Inspector,
Environmental Regulation, Sheffield City Council

Appendix 'E'

Hearing Notices / Regulations / Procedures



**Notice of hearing of representations
in respect of the following application:
LA03 Variation of a Premises Licence Application**

Elaine Cresswell
Health Protection Service, Sheffield City Council

Sent via email: elaine.cresswell@sheffield.gov.uk

The Sheffield City Council being the licensing authority, on the 9th June 2022 received an application in respect of the premises known as;

Dodona (fka Otto's) 344 Sharrow Vale Road, Sheffield, S11 8ZP

During the consultation period, the Council received a representation from the following Responsible Authorities:

1 x Health Protection Service, Sheffield City Council

The Council now **GIVES YOU NOTICE** that the representation will be considered at a hearing to be held in a meeting room at Sheffield City Council, The Town Hall, Pinstone Street, Sheffield S1 2HH, on **Monday 26th September 2022, 11am**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representation which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 1) The representation you have made with reference to these particular premises and the four core objectives.
- 2) You may also be asked questions by the parties to the hearing, relating to your representations.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD, or LicensingService@sheffield.gov.uk** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 15th September 2022

Signed: Jayne Gough
The officer appointed for this purpose

Please address any communications to: Licensing Service, Sheffield City Council, Block C Staniforth Road Depot Staniforth Road Sheffield S9 3HD. licensingService@sheffield.gov.uk



**Notice of hearing of representations
in respect of the following application:
LA03 Variation of a Premises Licence Application**

Michelle Hazelwood
John Gaunt & Partners Solicitors – on behalf of the applicant

Sent via email: mhazlewood@john-gaunt.co.uk

The Sheffield City Council being the licensing authority, on the 9th June 2022 received an application in respect of the premises known as;

Dodona (fka Otto's) 344 Sharrow Vale Road, Sheffield, S11 8ZP

During the consultation period, the Council received a representations from the following Responsible Authorities:

1 x Health Protection Service, Sheffield City Council

on the likely effect of this application on the promotion of the licensing objectives, should it be granted.

The Council now **GIVES YOU NOTICE** that the representation will be considered at a hearing to be held in a meeting room at Sheffield City Council, The Town Hall, Pinstone Street, Sheffield S1 2HH, on **Monday 26th September 2022, 11am**; following which the Council will issue a notice of determination of the application.

The documents which accompany this notice are the relevant representation which have been made, as defined in Section 35(5) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 1) Your response to the representation made, upon which you may ask and be asked questions by the parties to the hearing.
- 2) You may also be asked questions by the parties to the hearing, relating to your application for a licence.

Please complete the attached form LAR1 and return it to: **Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD, or LicensingService@sheffield.gov.uk** within five (5) working days before the day or the first day on which the hearing is to be held.

Dated: 15th September 2022

Signed: Jayne Gough

The officer appointed for this purpose

Please address any communications to: Licensing Service, Sheffield City Council, Block C Staniforth Road Depot Staniforth Road Sheffield S9 3HD. licensingService@sheffield.gov.uk

NOTES

Right of attendance, assistance and representation

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Representations and supporting information

16. At the hearing a party shall be entitled to –
- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
 - (b) if given permission by the authority, question any other party; and
 - (c) address the authority

Failure of parties to attend the hearing

20. – (1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.
- (2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may:–
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
 - (b) hold the hearing in the party's absence.
- (3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- (4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

Procedure at hearing

21. Subject to the provisions of the Regulations, the authority shall determine the procedure to be followed at the hearing.
22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.
23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for at regulation 16.
25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –
- (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the authority may specify,
- but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

LICENSING ACT 2003

Form LAR 1
Regulation 8

Premises: Dodona (fka Otto's) 344 Sharrow Vale Road, Sheffield, S11 8ZP

Type of App: LA03 Variation of a Premises Licence Application

Hearing Date: 26th September 2022 – 11am. Sheffield Town Hall

Notice of actions following receipt of notice of hearing

To **Licensing Service,
Sheffield City Council
Block C Staniforth Road Depot
Staniforth Road
Sheffield
S9 3HD**

I **Michelle Hazlewood**

of **John Gaunt & Partners, on behalf of the applicant**

hereby confirm that I have received the Notice of Hearing dated 15th September 2022 and notify you as follows **(please complete)**:

I intend to attend the hearing at 11am on Monday 26th September 2022 in Sheffield Town Hall.

I do not intend to attend the hearing

I intend to be represented at the hearing by:

I consider the hearing to be unnecessary because:

.....

I request thatshould appear at the hearing and set out below the point or points on which this person may be able to assist the authority in relation to this application, representations or notice of the party making the request.

Dated: **Signed**.....

Please see Regulation 8 overleaf

Please complete this form and return it to:
Licensing Service, Sheffield City Council, Block C Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD.

licensing@sheffield.gov.uk

Regulation 8

- (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating –
 - (a) whether he intends to attend or be represented at the hearing;
 - (b) whether he considers a hearing to be unnecessary
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

- (3) In the case of a hearing under –

- (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
- (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

- (4) In the case of a hearing under –

- (a) section 167(5)(a) (review of premises licence following closure order),
- (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
- (c) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

- (5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Licensing Act 2003 – Hearing Procedure – Regulation 7 (1)

This procedure has been drawn up in accordance with the Licensing Act 2003 to assist those parties attending Licensing Committee hearings.

1. The hearing before the Council is Quasi Judicial.
 2. The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
 3. The Chair will ask the applicants to formally introduce themselves.
 4. The Solicitor to the Committee will outline the procedure to be followed at the hearing.
 5. Hearing Procedure:-
 - (a) The Licensing Officer will introduce the report.
 - (b) Questions concerning the report can be asked both by Members and the applicant.
 - (c) The Licensing Officer will introduce in turn representatives for the Responsible Authority and Interested Parties who will be asked to detail their relevant representations.
 - (d) Members may ask questions of those parties
 - (e) With the leave of the Chair the applicant or his representative may cross examine the representatives of the Responsible Authorities and Interested Parties.
 - (f) The applicant/licensee (or his/her nominated representative) will then be asked to:-
 - (i) detail the application;
 - (ii) provide clarification on the application and respond to the representations made.
 - (g) The applicant/licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
 - (h) The applicant will then be given the opportunity to sum up the application.
 - (i) The Licensing Officer will then detail the options.
 - (j) There will then be a private session for members to take legal advice and consider the application.
 6. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.
- NB: 1) At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
- 2) The Committee Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.