

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 9 October 2018

Present: Councillor Jeavons (Chair)

Councillors: Grimshaw and McHale

LACHP/18/149. Application for a Premises Licence Variation for Krakow Delicatessen, 80 Bury Old Road, Manchester, M8 5BW

The Committee when considering the application for a variation in hours considered the application, the representations of all parties both oral and written as well as the relevant legislation, the guidance issued under s 182 of the Licensing Act 2003 and the Manchester City Council Statement of Licensing Policy.

The Committee heard from the applicant that discussions had taken place with the Responsible Authority and an agreement had been reached. This agreement was reached regarding waste management, CCTV and training. The Applicant gave the Committee some details of how the premises are operate including use of a refusals book, staff training and operation of CCTV. The Applicant explained that the additional hours were sought to enable shift workers who use the store to buy all products together both groceries and alcohol without the requirement to visit the shop separately to purchase alcohol. The applicant denied the allegations made in the representation from Interested persons that they were responsible for a group of males who drink in the vicinity of the premises and are regularly seen unconscious in the area.

The Applicant stated that they do not serve drunk people and they are a family run shop catering for families. In the absence of any evidence regarding the premises selling alcohol to persons who are drunk or allowing anti-social behaviour from patrons in the vicinity of the premises the Committee was not able to make a finding of fact regarding this issue and therefore this was given no weight in the decision. The Committee heard that the Responsible Authority was satisfied about the premises waste management. The Responsible Authority was seeking further conditions concerning CCTV and training. The Committee however considered the current licence conditions to be suitably robust to address the concerns of the Responsible Authority.

In all the circumstances the Committee therefore considered it appropriate to grant the variation.

Decision

To grant the application.

LACHP/18/150. Application for a New Premises Licence for Red Sea Café, 113 Princess Road Manchester M14 4RB

The Committee considered all representations at the hearing. The Committee also considered the Council's Statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under, the Guidance issued by the Secretary of State under Section 182 of that Act and the Licensing Objectives.

The Committee noted that agreement had been reached between the applicant and all parties who made a representation, so treated the matter as a determination. The Committee also noted that as a result of the agreements between the applicant, LOOH and Trading Standards, GMP had withdrawn their representation.

Decision

To grant the application subject to the following conditions.

Conditions

1. An incident log shall be kept at the premises for at least six months, and made available on request to the Police or Manchester City Council;
2. All staff shall be trained in;
 - a. Age restrictions in respect of products
 - b. Responsible Alcohol Service, including recognising signs of drunkenness
 - c. Licence conditions
 - d. Relevant obligations and offences under the Licensing Act 2003, including those associated with the sale of alcohol
 - e. Smoking policy
 - f. Dispersal policy
 - g. Incident reporting procedures
3. All firefighting equipment is inspected and serviced in line with the appropriate British Standard;
4. All fire exits shall be free from obstruction at all times the premises are open to the public;
5. The premises licence holder shall ensure that at all times when the public is present there is at least one competent person able to administer first aid, and there is an adequate supply of first aid equipment.
6. All windows and external doors shall be kept closed between 22:00 hours and 08:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons;
7. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that give rise to a nuisance;
8. Speakers shall not be located/operated outside the premise;

9. Staff shall monitor customers smoking outside the premises on a regular basis and ensure they do not cause a public nuisance;
10. A direct telephone number for the manager of the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents in the vicinity;
11. There shall be a documented smoking policy implemented prior to this licence being granted;
12. There shall be a documented dispersal policy implemented prior to this licence being granted;
13. Notices shall be displayed in any areas used for smoking and at all exits, requesting customers and/or staff respect the needs of the local residents and use the area quietly;
14. Throughout the trading day, the pavement from the building line to the kerb edge immediately outside the premises shall be swept and/or washed if necessary, with litter collected and disposed of accordingly;
15. At the end of each trading day, the pavement from the building line to the kerb edge immediately outside the premises shall be swept and/or washed if necessary, with litter collected and disposed of accordingly;
16. No deliveries and/or collections (including waste collections) shall take place on Sunday or Bank Holidays or between 20:00 hours and 07:30 hours Monday to Saturdays.
17. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an HM Forces warrant card, or a card bearing the PASS hologram.
18. The premises shall display prominent signage indicating at any point of sale and at the entrance to the premises, and all other areas where alcohol is offered for sale, that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.
19. In addition to any other training, the premises licence holder shall ensure all staff are trained to prevent underage sales, to be aware of and prevent proxy sales, to maintain the refusals log, enter sales correctly on the tills so the prompts show as appropriate and monitor staff to ensure their training is put into practice.
20. Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 6 monthly

intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of Manchester City Council.

21. A log shall be kept at the premises and record all refused sales of alcohol for the reasons that the person(s) is, or appear to be, under 18 years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be available on request by the police or an authorised officer of Manchester City Council. The log shall be checked on a regular basis by the Designated Premises Supervisor to ensure that it is being used by staff and each check shall be recorded in the log.

LACHP/18/151. Application for a Premises Licence Variation for Folk Deli Bar, 169-171 Burton Road, Manchester M20 2LN

The Committee when considering the application for a variation in hours considered the application, the representations of all parties both oral and written as well as the relevant legislation, the guidance issued under s 182 of the Licensing Act 2003 and the Manchester City Council Statement of Licensing Policy..

The Committee heard that the Applicant had been operating the premises for 14 years and he was a community minded person. The purpose of the application was to retain his existing customers in the additional hours applied for not to attract fresh customers and therefore the last entry condition was being proposed. The Committee considered all the circumstances including the location of the premises in a vibrant area of the city and the nature of the operation and the history of the premises and the Committee considered it appropriate to grant the application on these terms as it considered that the licensing objectives would not be undermined.

Decision

To grant the application subject to the following conditions.

Conditions

1. There is to be no admission to the premises after midnight save for returning smokers.
2. Bottles and refuse will not be emptied into skips between the hours of 20:00 and 07:00
3. The premises Licence holder will adhere to the "External Management Plan referred to in Annex 3 condition 2 of the licence.
4. The requirement for SIA registered door staff will be risk assessed by management and door staff will be employed if deemed appropriate. Door staff to be employed for Westfest and similar major events in the locality. On any occasion door staff are employed they will commence duties no later than 21; 00.
5. Condition 3 annex 3 to be amended to add the words "save for smoking ".

**LACHP/18/152. Application for a Sexual Entertainment Licence Renewal for
Private Shop, 54 Oldham Street, Manchester M4 1LE**

In reaching its decision the Committee considered the Council's Sexual Establishment Policy and the relevant sections of the Local Government (miscellaneous Provisions) Act 1982.

The Committee noted that no objections had been received against this application and none of the mandatory or discretionary grounds for refusal applied.

Decision

To grant the application.

**LACHP/18/153. Application for a Premises Licence Variation for Cask, Falt 1,
Cotton Field Wharf, 4 New Union Street, Manchester M4 6FQ**

The Committee when considering the application for a variation in hours considered the application, the representations of all parties both oral and written as well as the relevant legislation, the guidance issued under s 182 of the Licensing Act 2003 and the Manchester City Council Statement of Licensing Policy.

The Committee noted that the hours applied for were within the hours set out within the special policy for the area and also took into account that the applicant is a responsible operator with a good track record of running another similar bar in a different part of the city. . The Committee also took into account the proposed nature of the operation and in the circumstances considered that granting the variation with the additional conditions imposed would not undermine the licensing objectives.

Decision

To grant the application subject to the following conditions.

Conditions

1. A direct telephone number for a manager or DPS to be made available to local residents to facilitate contact during hours of operation of the premises.
2. The external area to be closed to all patrons except for the purpose of smoking at 23:00 daily.
3. The requirement for SIA registered door staff will be risk assessed by management and door staff will be employed if deemed appropriate. On any occasion door staff are employed they will commence duties no later than 21:00.

**LACHP/18/154. Application for a Premises Licence Variation for Mary &
Archie, 200 Burton Road, Manchester M20 2LW**

The Committee took note that the application for live music on Friday and Saturdays from 1900 -2300 was not required given the size of the premises which has a capacity under 500 which therefore means that live music is permitted between the hours applied for under the legislation.

The Committee when considering the application for a variation in hours considered the application, the representations of all parties both oral and written as well as the relevant legislation, the guidance issued under s 182 of the Licensing Act 2003 and the Manchester City Council Statement of Licensing Policy.

The Committee heard from the applicant that he had recently taken over this restaurant and bar however he already ran another bar in the locality and that he was aware that in addition to his other bar there were several other bars in the area which had later hours than those he was applying for and he considered the hours applied for to be both reasonable and considerate towards residents. The Committee was told that the premises served food until 9 pm and thereafter. When asked about the number of representations from residents and whether any consultation had taken place the applicant confirmed his customers were predominantly local residents and he had consulted with his customers. The applicant explained that although staff had been spoken to by Licensing and Out of Hours during the Westfest event about noise coming from the bi fold doors which had been opened, this had been a one off event during their first week of trading and had been addressed straightaway by staff.

The Responsible Authorities and residents all expressed concerns about the lack of consideration given to the management of the premises if the variation was granted as no additional measures were proposed. The Committee heard that these premises which are at the end of a block adjoining Orchard Street which is a residential area are in a particularly noise sensitive location with residential premises being very close. The Committee heard that residents living on Orchard Street were particularly at risk of noise nuisance from the premises. Particular concerns were raised about the lack of a smoking policy, lack of a proposed last entry policy, no provision for door staff and lack of a dispersal policy.

The Committee considered that the applicant had not properly taken into account the additional risks associated with patrons drinking for an additional hour and had not put forward any safeguards or management controls to ensure that residents would not suffer noise nuisance from patrons in the later noise sensitive hours. In particular the Committee was concerned about noise from patrons smoking outside the premises and noise from dispersal of patrons. Given the lack of detail regarding management controls the Committee considered that granting the variation would undermine the licensing objective of prevention of public nuisance. The Committee considered that had proper consultation taken place with Responsible Authorities and with residents appropriate management controls could have been considered and put forward by the applicant. In the circumstances the Committee considered it appropriate to refuse the application.

Decision

To refuse to grant the application on the grounds of the prevention of public nuisance.

LACHP/18/155. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the items of business.

Decision

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

LACHP/18/156. Application for a Personal Licence (AB)

The Committee considered the written application and representation including the additional information provided by GMP as well as the oral representations of both parties. The Applicant told the Committee he wanted to hold the licence so that he could apply for a premises licence for the cafe he currently runs as a business in the Trafford area. He told Committee he had a difficult childhood and that the offences were committed when he was young. He told the Committee that the use of 22 aliases was not intended to deceive anybody but was simply as a result of living in foster care and changing his name to fit in with the families he was being fostered by. He also told the Committee that he was now a changed man and played an active role in the community. He told the Committee that since his release from prison he had not even been stopped by the police for anything.

The representative from GMP questioned the defendant about an ongoing investigation by DWP. The applicant denied that he was currently under investigation for any offences and told the Committee that although he had been under investigation for an offence he had not been charged and it had been confirmed to him that there would be no further action taken by GMP. The representative from GMP informed the Committee that a charging decision in respect of a DWP investigation would not be taken by GMP. The Applicant also denied that he had any encounters with GMP officers as set out in the documentation provided by GMP .

The Committee considered the relevant unspent offence to be a serious matter and noted that the Applicant was in fact 28 at the time. The Committee did not accept the explanation for the numerous aliases to be a credible explanation for the use of 22 aliases. The Committee also considered that the applicant had provided conflicting statements in relation to his dealings with GMP since his release from prison. Therefore the Committee considered it appropriate to refuse the application on the ground of the prevention of crime and disorder.

Decision

To refuse to grant the application on the grounds of the prevention of crime and disorder.