

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Thursday, 11 April 2019

Present: Councillor Evans – in the Chair

Councillors: Barrett and T Judge

LACHP/19/64. Application for a Review of a Premises Licence for Neighbourhood Manchester, The Avenue North, Manchester, M3 3BZ.

The Committee have listened very carefully to the evidence put before them today and have also considered the written documentation provided and the CCTV footage they have viewed.

In reaching its decision the Committee have also considered the Council's Statement of Licensing Policy, the Licensing Act 2003, the Regulations made thereunder and the Guidance issued by the Secretary of State under Section 182 of that Act and the licensing objectives in particular crime and disorder and public safety.

When making their decision the Committee have considered section 53C of the Licensing Act 2003 which sets out below the steps they can take (if any), if they consider it appropriate for the promotion of the licensing objectives.

53C Review of premises licence following review notice

(1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under [section 53A](#).

(2) The relevant licensing authority must-

(a) hold a hearing to consider the application for the review and any relevant representations; [and]

(b) take such steps mentioned in subsection (3) (**if any**) as it considers [appropriate] for the promotion of the licensing objectives [.] [...]
[...]

(3) Those steps are-

(a) the modification of the conditions of the premises licence,

(b) the exclusion of a licensable activity from the scope of the licence,

(c) the removal of the designated premises supervisor from the licence,

(d) the suspension of the licence for a period not exceeding three months, or

(e) the revocation of the licence.

The Committee also remind themselves of why summary reviews are brought and refer to section 12.2 of the Section 182 guidance which states:

“...The powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives. The powers complement the general procedures in the 2003 Act for tackling crime and disorder associated with licensed premises and should be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken.”

The Committee are very concerned that this premises finds itself again back before the Committee just over 12 months since their licence was reviewed following another expedited review where the use of a knife has been used by customers in attendance at the premises and a bottle used by a member of door staff which resulted in a serious injury to a male. Both these incidents demonstrate the extreme levels of violence used by customers/ door staff at the premises.

In addition the Committee considered the conditions that were imposed following the previous review.

The Committee have serious concerns as to the level of violence that has occurred on these two separate occasions at the premises and further are concerned with the clientele that are frequenting the premises in particular members of organised crime gangs. The Committee are satisfied on the evidence that this premises is associated with serious crime and serious disorder.

The Committee are deeply concerned that a male has got into the premises again with a knife and used that knife on another person. Regarding the incident on the 17th March 2019 as set out in the statement of Managing Director of the East Coast Concepts Group at paragraph 89 of his statement the issues with the premises that night were:

- a) "Lack of detention of assailant
- b) Lack of use of Nitenet
- c) Lack of operation of body cameras
- d) Response of door team externally
- e) The simple fact of the presence of a knife/person carrying a knife in the premises."

This has been also accepted in evidence today by the Respondent's representative.

Drake Concert- After Party

The Respondents in their evidence have placed a lot of the blame at the door staff but it the operator who is responsible for conditions of the licence and how the premises should be operated, this includes been responsible for the door staff. In particular in regards to the Nitenet not been used by the premises since August 2018 the evidence from GMP and OOHT is accepted by the Committee and the explanation given by the Respondents is found not to be credible. The Committee expect that when conditions are imposed on a licence they are strictly adhered to especially when they are placed on a licence following a summary review.

On this night there were clear breaches of the licence conditions and the CCTV footage confirms this. This has also been accepted in evidence by the Respondent's representative and the Respondent.

Last 18 months- incidents at the premises

Whilst the GMP have included in their representation a number of incidents which have occurred at the premises over the last 18 months the Committee have considered each of the incidents and the nature of them. The Committee conclude that whilst there has been a number of incidents during the last 18 months (excluding the matters on 19th March 2018, and 17th March 2019) they do not consider these to be the primary reason for the revocation of the licence and duly considered the representations made on behalf of the Respondent in respect of these particular incidents.

Financial Position

We have considered the financial impact that a revocation of a licence would have on the business and the staff that work at the premises but this must be weighed up against upholding the licensing objectives and whilst it is accepted it is a draconian sanction, based on the evidence presented it is the only appropriate and proportionate outcome.

Conditions/ Proposal put forward by the Respondent

The Committee have considered the proposals put forward by the Respondent in detail and the assurances that have been given by the Respondent however they conclude that this operator would not abide by these further proposed conditions due to its previous history in failing to comply with conditions at the premises. The Committee are further concerned with how the premises is managed on a daily basis and whilst the Respondent can give assurances the Committee have no confidence that they will be implemented by the on site management team.

To Conclude

Following the summary review proceedings which have been brought against this premises coupled with the breaches of conditions, the licensing objectives of crime and disorder and public safety are being undermined.

Decision

To revoke the Licence.

Consideration of the Interim Steps-

Section 182 Guidance states:

12.29..... "To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.

12.30 In conducting the review of the interim steps the licensing authority has the power to take any of the steps that were available to it at the initial stage (see paragraph 12.13). Any interim steps taken at the review hearing apply until— (a) the end of the period given for appealing against a decision made under section 53C (21 days), (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under (a) or (b) above).

53D Interim steps pending section 53C decision coming into effect

(1) At the hearing to consider an application for a review under [section 53A](#), the relevant licensing authority must review any interim steps that have been taken by the relevant licensing authority under [section 53B](#) that have effect on the date of the hearing.

(2) In conducting the review under this section, the relevant licensing authority must—

(a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;

(b) consider any relevant representations; and

(c) determine whether to withdraw or modify the interim steps taken.

(3) The power of the relevant licensing authority on a review under this section includes a power to take any of the following interim steps—

(a) the modification of the conditions of the premises licence;

(b) the exclusion of the sale of alcohol by retail from the scope of the licence;

(c) the removal of the designated premises supervisor from the licence;

(d) the suspension of the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(4) Any interim steps taken under subsection (3) apply until—

(a) the end of the period given for appealing against a decision made under [section 53C](#),

(b) if the decision under [section 53C](#) is appealed against, the time the appeal is disposed of, or

(c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under paragraph (a) or (b)).

(5) Any interim steps taken under [section 53B](#) in relation to a premises licence cease to have effect when the decision made under [section 53C](#) comes into effect.

Reasons- the Committee have considered the representations made by the Respondent's Representative and GMP.

The Committee have considered whether they should lift the suspension and replace it with the proposal put forward by the Respondent's representative, that being modification of the terminal hour (until midnight) and adding the conditions they proposed during the review hearing. They have also considered alternative modifications.

Decision

The Committee have decided not to withdraw the suspension. As stated in the full review reasons the Committee are concerned with the level of violence that has taken place at the premises in particular the use of knives.

The Committee further do not have any confidence in the operator and the day to day staff at the premises to uphold the licensing objectives of crime and disorder and public safety and this has been evidenced by clear breaches of the licensing conditions.

The Committee consider that the interim steps are appropriate in light of the evidence the Committee have considered today.

Therefore the licence remains suspended.

Notice of both decisions have been given orally to the parties in full.