

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 18 May 2020

Present: Councillor – in the Chair

Councillors: Andrews, Hughes and Reid

LACHP/20/49. Urgent Business

The Hearing Panel agreed to take one item of Urgent Business:

Club Premises Certificate Variation - Northenden Social Club, 412 Palatine Road, Manchester, M22 4JT- determination

LACHP/20/50. New Premises Licence - Café Kilombo, 43 Kenyon Lane, Manchester, M40 9JG

Consideration was given to a report of the Director of Planning, Building Control and Licensing regarding an application for a New Premises Licence.

The Hearing Panel considered the written papers, oral representations of all parties as well as the relevant legislation. The Hearing Panel noted that the applicant themselves were not in attendance and that the applicant had appointed a representative to speak on their behalf.

The applicant's representative explained that the premises was a family business operating as a café and restaurant and that the application was to enable customers to have a glass of wine or beer with their meal. The representative stated that the hours applied for were reasonable and further explained to the Hearing Panel that the business was struggling and the licence would help to boost profits.

A representative from Greater Manchester Police (GMP) addressed the Hearing Panel and mentioned numerous incidents of Public Nuisance in the locality arising from sales of alcohol in other, similar premises. GMP told of drunken patrons spilling out onto the street from other licenced cafes/restaurants who were abusive to passers-by, on occasion behaving violently and, in some cases, openly urinating in the street. GMP felt strongly that the amount of these type of problems already prevalent in the area would only be exacerbated by agreeing for this premises to have an alcohol licence as well.

A representative from Licensing Out Of Hours (LOOH) addressed the Hearing Panel and informed them that there had been previous incidents at the premises whereby alcohol had been sold without a Licence.

LOOH gave mention of a prior Licence Application in April 2018 explaining that the applicant had had a private party at the premises approximately one month before

and there had been numerous complaints regarding antisocial behaviour by way of noise, drinking and urinating in street, which even without the sale of alcohol showed a lack of control of the premises.

Furthermore, LOOH had made a visit in April 2019 which revealed numerous crates of beer on the premises. LOOH had also noticed a number of sales slips with 'Birra' on them. At that time they did not have sufficient evidence to prosecute under the provisions of s136 of The Licensing Act and a warning was given.

LOOH also referred to a Late Temporary Event Notice (TEN) Application for March 2020 which LOOH had objected to. LOOH explained to the Hearing Panel that PC Braithwaite attended on a compliance visit when there were Coronavirus restrictions in place and noted that there was alcohol on the premises and signage relating to underage drinking as if the premises was selling alcohol already or preparing to sell it when there was no licence in place.

LOOH felt able to accept that mistakes can be made by business owners but without the applicant present to answer questions to support such presumptions had undermined any confidence in the applicant's ability to uphold the licensing objectives.

Following the information presented by GMP and LOOH and taking into account the applicant's absence meaning that no explanation could be offered on behalf of Café Kilombo, The Hearing Panel felt that the Licensing Objectives would be undermined. The Hearing Panel were certain that the previous history of incidents at the premises further removed any doubt with regard to the applicant's capable handling of the premises and its patrons.

Decision

To refuse the application for a new premises licence.

LACHP/20/51. New Premises Licence - Convenience Store, 120 Mauldeth Road, Manchester, M14 6SQ

The Hearing Panel were notified that the applicant was currently ill with the Coronavirus and could not attend. The Hearing Panel felt a deferral was necessary to consider the application and representations at a future hearing.

Decision

To defer the application for a future Hearing Panel to consider.

LACHP/20/52. Temporary Event Notice - Velvet (cobble area), 2 Canal Street Mcr, M1 3HE

Consideration was given to a report of the Director of Planning, Building Control and Licensing regarding an application for a New Premises Licence.

The Hearing Panel considered the written papers, oral representations of all parties as well as the relevant legislation.

GMP gave representations to the Hearing Panel on the basis that the TEN had been applied for to coincide with Manchester PRIDE Festival. Following the removal of the PRIDE event due to restrictions arising from the Coronavirus, GMP had objections to keeping the TEN in place.

GMP's objections were on the basis that:

1. Without the PRIDE event there would be no additional security and no fencing around the festival area;
2. There would be no relaxation of the Public Space Protection Order (PSPO) and therefore an outside bar would be in breach of that order;
3. There were concerns around complying with social distancing;
4. There was currently no licensing activity anywhere in the UK and no given date for the relaxation of this guidance.

The applicant then gave their oral representation, stating that Velvet had initially given Notice of the TEN for the purposes of the PRIDE festival. It was acknowledged by the applicant that, due to Coronavirus restrictions, the event had been cancelled.

The applicant still wished to proceed with the TEN on the basis they were entitled to apply for a regular TEN and that the application should be considered on its own merit. They confirmed when questioned that whatever the regulations were in August they would comply with and would address any issues in respect of social distancing.

In relation to a PSPO still being in force, the applicant confirmed that they would comply with any legislation or regulations in force at the material time. The applicant advised that, having gone through the objections, their normal terminal hour was 02:00 but they were willing to change this to a 01:00 closure so as not to cause any road nuisance. The applicant was made aware at this stage that the TEN could not be amended or modified and would be as submitted.

When questioned as to how they would manage 200 people the applicant responded, explaining that Velvet has had numerous outside events; they had a three year history of TENs including PRIDE and had never had any issues or complaints. The applicant also confirmed they had never had a TEN refused and confirmed that, should social distancing mean that they could not accommodate 200 people, they would not allow this capacity. The applicant also stated that they would have their own security operating on the site.

In respect of the tables and chairs the applicant stated that PRIDE festivals did not allow for their premises to have tables and chairs outside. With the cancellation of PRIDE they could now utilise them, depending on government guidelines.

The applicant further explained that, with regard to the PSPO, without the PRIDE festival operating the street would now be a 'normal street'. The applicant confirmed they would comply with any current legislation and regulations. The applicant was

aware that any failure to do so could result in prosecution and a risk of the loss of their licence.

In deliberating the Hearing Panel was satisfied that the TEN would promote the licensing objectives and was appropriate and proportionate in the circumstances as the venue had to comply with legislation and regulations and any PSPO in place. The Hearing Panel felt satisfied that the applicant was a reputable operator and had taken into account all of the potential restrictions that could be in place while the TEN was active. Any failure to comply with any legislation and regulations would be damaging to the applicant/business but the Hearing Panel felt certain that the applicant's competent reputation meant that they would comply with any relevant procedures at that time.

Decision

To grant the TEN as applied for.

LACHP/20/53. Club Premises Certificate Variation - Northenden Social Club, 412 Palatine Road, Manchester, M22 4JT- determination

The Hearing Panel noted that the application was agreed by all parties prior to the meeting and was therefore treated as a determination.

In reaching its decision the Panel also considered the Council's Statement of Licensing Policy, the Licensing Act 2003, the Regulations made there under and the Guidance issued by the Secretary of State under Section 182 of that Act and the licensing objectives.

Decision

To grant the application for a Club Premises Certificate Variation.