

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 4 January 2022

Present: Councillor Andrews – in the Chair

Councillors: Hassan and Hughes

LACHP/21/1. Application for a Premises Licence Variation - Mr Sharwama, 15 Shudehill, Manchester, M4 2AF

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

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

The applicant began by addressing the Hearing Panel, stating he had done everything that had been asked of him. He explained he would use a security guard when needed, and that he has a friend who is SIA registered who sometimes provides services to the premises.

In answer to questioning, the applicant explained that the application contained an error in stating that they could not get customers out on time. The GMP representative questioned this statement and the applicant explained that comment was added to the application in error. The applicant also stated that no extra controls had been suggested for this extension of hours.

Licensing Out of Hours then provided a statement. Two compliance visits were made in December 2020, 4 and 23 December. On both visits, it was found that license conditions were not being met. On 4 December, there was no dispersal policy, Health and Safety policy, no fire risk assessment and the occasional door worker was not registered. On 23 December, a dispersal policy, health and safety policy and fire risk assessment were in place. However, other conditions were not being adhered to, specifically a lack of risk assessment for security on the door and that the plans for the premises held on record did not match the layout on site. CCTV on site was also found to be non-compliant. The CCTV being used did not retain images for the agreed 28-day period, however the applicant did explain an engineer has been out to update the system. A further visit by LOOH will take place on 21 January 2022 which will determine if this is the case. The Hearing Panel was concerned that the premises was still not fully compliant with all conditions on the licence particularly those regarding the use of Security staff.

The Hearing Panel considered it important that there is a clear strategy regarding the use of SIA security staff and a sound rationale for assessing when they are required. The Hearing Panel found that the applicant was not able to put forward any basis or reasoning for his risk assessments. The Hearing Panel was also concerned that there was no register kept of when SIA door staff were used. The Hearing Panel therefore considered that until those conditions were being fully implemented it could

not be satisfied that the licensing objectives of prevention of public nuisance and prevention of crime and disorder would be complied with if the variation was granted. The Hearing Panel therefore considered it appropriate to refuse the application.

Decision

To refuse the Premises Licence Variation on the grounds of the prevention of public nuisance and the prevention of crime and disorder.

LACHP/21/2.Application for a new Premises Licence - Biggys, 479 Wilmslow Road, Manchester, M20 4AN

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

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

The applicant began by addressing the Hearing Panel and explained that they have amended their initial application due to the objections of residents and resident groups in the area. Rather than applying for a late license until 4am at weekends and 2am on weekdays, they were now applying to operate using a delivery service only from 11pm – 2am, 7 days a week. The Applicant offered to keep the shutters on the front of the shop down during these hours, to reduce the possibility of people thinking they were open for customers to go inside. The Applicant explained this lower footfall would reduce the probability for nuisance to be caused. With the shutters being down, the premises would utilise a car park to the rear of the premises to collect deliveries from a side door. They explained that they had a number of years' experience in the takeaway industry and informed the panel of the other takeaways they operate.

LOOH informed the panel that the premises had been caught operating outside of their licensed hours on two occasions. Following the second occasion when the premises had been given a verbal warning the premises had closed at 11pm. The applicant explained that on the first occasion, they were not operating but the staff were having a gathering for a birthday in the team. They accepted on the second occasion, they had been operating outside of licensed hours but offered the explanation that they had recently taken over the property and the previous owner had told them they had a license covering these later hours and took this in good faith.

GMP addressed the Hearing Panel and confirmed that they were also concerned that no conditions had been put forward to mitigate a breach of licensing objectives.

The Principal Licensing Officer reminded the panel that the area fell into the Withington framework and as such, the content of the policy should be considered in any decision made.

Residents groups were then given the chance to raise their objections. They explained that the area already suffers from noise disturbance late at night, adding a

further delivery service to this would only exacerbate the problem. All objectors referenced the Withington Stress Policy, explaining that this was not an exceptional application and therefore should be rejected.

The Hearing Panel heard from one resident who supported the application. They explained that they are a delivery driver and thought the premises should be given a chance. This supporting resident felt that the majority of deliveries from the store go outside the Withington area and therefore would not be creating any issues there.

The Hearing Panel first acknowledged that the premises fell within the Withington stress area. They believed that the application was not exceptional under this policy. They recognised that the applicant had altered their application in the face of objections, however, the Hearing Panel had concerns about a lack of engagement with residents regarding the car park intended for use. They also had concerns about a lack of consultation with the fire department regarding operating with one entrance/exit way being closed with shutters. The Hearing Panel also noted that the application did not detail how these recent amendments would be conducted, therefore providing no details of operation. Taking all of the above into account, the Hearing Panel were not satisfied that the application would meet licensing objectives or provide any reason to deviate from the Withington Stress Policy.

Decision

To refuse the Premises Licence Variation on the grounds of prevention of public nuisance.