

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 19 April 2022

Present: Councillor Andrews – in the Chair

Councillors: Hassan and Hughes

LACHP/21/33. Review of a Premises Licence - Tribeca, 50 Sackville Street, Manchester, M1 3WF

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

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

LOOH first addressed the Hearing Panel, stating they had always been available to assist the premises with the issues they had faced. The premises had recently changed DPS to help with running the venue, however LOOH were still concerned that the premises were undermining their licensing conditions and failing to uphold the licensing objectives. LOOH listed a number of issues that had occurred at the premises, mainly related to noise emanation, SIA provision and CCTV. For example, on one visit the CCTV was 45 minutes out which LOOH informed the Panel was not expected. LOOH also informed the Panel of an issue of the previous DPS forging a signature on a document, which they had apologised for. Due to the issues, an action plan was drawn up between LOOH, GMP and the premises. However, on further visits, LOOH saw that this action plan had not worked, with the premises still routinely breaking the conditions of their licence, still relating to noise emanation, SIA provision and CCTV. During various lockdowns, there had also been issues with the following of COVID guidelines. The previous DPS was issued with a fixed penalty notice due to this, something LOOH said they had claimed to not remember. A further issue raised by LOOH was that the previous DPS had been reported as living on the premises. Other issues related to event management and the completion of incident books and SIA signing in sheets.

LOOH discussed complaints they had received regarding the premises from residents in the building above and others. These mainly related to excessive bass from speakers and excessive noise emanation, which the premises had received warnings about. One complaint claimed that the premises was operating lock-ins involving dealing and taking drugs. LOOH informed the Hearing Panel that they were aware of a number of occasions where GMP had been called to disperse crowds or deal with violence. LOOH also stated that risk assessments and a dispersal policy were not specific to Tribeca and they had informed the former DPS that the documents were not fit for purpose. LOOH finally stated that on their most recent visits, issues around SIA, noise and CCTV were still ongoing. LOOH felt that the premises were still not adhering to their license conditions following numerous meetings and warnings.

In questioning, the applicant's agent sought to establish further information regarding an incident involving SIA provision, the previous DPS being off-site at the time of an incident and an issue relating to drainage. In terms of SIA provision, LOOH noted that on the night in question, a member of the security team left the premises to go to another. LOOH stated that the previous DPS was not aware this had happened but felt that they should have been. The incident relating to the previous DPS being off-site, LOOH visited the premises and the person in charge in the absence of the DPS did not have their personal licence with them. LOOH informed the Hearing Panel that it is a requirement to carry this at all times. The issue regarding drains, LOOH stated that they believed the previous DPS to have been aware of this beforehand but was happy to withdraw that statement if wrong.

The applicant's agent then sought information regarding CCTV improvements, an incident regarding 'fly tipping', the complainants and LOOH preferred decision from the hearing. In terms of CCTV, LOOH stated that on one visit it can work fine but then on the next it will not. LOOH informed the Panel that they believe the fly tipping incident to be something the premises had been spoken to about on a few occasions by the commercial waste compliance team. The complainants are mainly residents and LOOH felt that the reports of lock-ins and drugs at the premises was from a credible source. LOOH stated they did not have a preferred decision and it was a matter for the Hearing Panel to decide.

The applicant's agent clarified whether LOOH were aware of a noise limiter that had been installed and that all security staff had been recently retrained. LOOH were unaware of the retraining and knew the premises had a limiter. They did not know it had been installed.

GMP then addressed the Hearing Panel, noting the amount of work colleagues had done with the premises. GMP informed the Hearing Panel of the number of meetings that they had held with the previous DPS to discuss breaches of the license. GMP noted that there had been various incidents with disorder and dispersal at the premises. GMP were surprised at the number of incidents at one venue and felt as though options going forward were limited to revoking the licence.

The applicant's agent sought to establish further information on whether any of the issues dealt with had been related to drugs, weapons or underage drinking. GMP were not aware of any issues relating to any of them.

The applicant's agent then addressed the Hearing Panel, stating they accepted there was a case to answer but did not see it as bad as had been made out. The applicant's agent then provided the Hearing Panel with some background to the character of the previous DPS. The applicant's agent believes an action plan was the way forward but that the current one had a statutory defence within it. They then addressed the various incidents raised by LOOH and GMP. In terms of the fly tipping, the applicant's agent stated that the staff member who had done this had been dismissed. The fixed penalty notice received by the previous DPS will be paid but they do not remember receiving it. In relation to noise emanation, the applicant's agent wondered why none of those who had put in a complaint to LOOH, had made a representation at the hearing. The applicant's agent stated that the drainage issue was an emergency and was not known to the previous DPS beforehand, stating they

felt it unfair of LOOH to assume they did know about it. The applicant's agent acknowledged the changes already made by the premises in terms of having a new DPS and the retraining for staff that recently took place. They referred to the case law supplied by LOOH, stating they felt it invalid as statutory guidance has been updated since then. The applicant's agent asked the Hearing Panel to have a regard for the principle of proportionality when making their decision, seeking to find a middle ground rather than revocation of the licence.

The former DPS then addressed the Hearing Panel, stating how much they had put into the business. They acknowledged the mistake they made in forging a document. The former DPS informed the Panel that they have full integrity. The former DPS informed the Panel that they were at risk of losing everything and asked for an opportunity to rectify things.

LOOH questioned the current DPS regarding how things will be run differently and who will be involved. The current DPS stated that they took over in November, having previously been the DPS for the venue. They stated there had been no issues when they were DPS and they run four other premises that have no issues. They stated that they were interviewing for a new DPS soon as they could not commit enough time to the premises themselves. The current DPS stated that the previous one would not return as DPS or general manager of the premises but would remain in charge of events.

LOOH then questioned if these were similar to the events that have recently had issues. The applicant's agent responded by stating they had offered a condition relating to this in the amended licence conditions suggested. The former DPS stated that an Event Risk Assessment Summary had been provided to LOOH in January 2022.

GMP questioned the former DPS regarding their integrity following the forging of a document, and whether frequently forgetting things highlights their incompetence. The former DPS responded stating that they did not understand the legality of forging but takes full responsibility. They also said that whilst they have forgotten certain things, they will still take full responsibility for things that go wrong.

GMP then questioned the current DPS on whether it was wise to keep the former DPS on to manage events and who is in place until they find a new DPS. They replied saying that the former DPS is a good events manager. The current DPS will be on site around once a week but believed they would have someone in place the week of the hearing to take over this role.

The Panel then sought to establish further information regarding when the current DPS took over and raised concerns about the former DPS not knowing a security guard had left on the night of the incident discussed. The current DPS took over in November 2021 and accepted mistakes had still happened but disputed the events referred to from LOOH's most recent visit, providing evidence at the hearing to support this.

In summing up, the applicant's agent accepted that there had been issues but there were occasions where things were correct. The applicant's agent felt the idea of

revoking the licence on the premises' first visit before the Hearing Panel to be harsh and hoped a middle ground could be found. They referred to the conditions they had suggested but stated they would need time to demonstrate the changes were working.

GMP summed up stating the premises had had enough warnings and been given lots of help. GMP were concerned that the same staff members would be running the premises going forward and they had already highlighted their incompetence.

LOOH summed up by stating that their team had made every effort to encourage the premises to work towards their licensing conditions. LOOH felt they had been given ample time to address these issues and still had not managed it.

In their deliberations, the Hearing Panel acknowledged the numerous incidents listed by GMP and LOOH. They accepted that the premises had not been well run under the former DPS. However, the Panel felt it appropriate to give the premises an opportunity to recruit a strong new management team who will be able to operate the premises in accordance with the new licensing conditions, as put forward themselves, and in a manner which will not undermine the licensing objectives.

Decision

To modify the conditions as put forward by the Premises licence holder and to suspend the licence for one month.