

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Monday, 4 July 2022

**Present:** Councillor Andrews – in the Chair

**Councillors:** Flanagan and Hewitson

**LACHP/21/51. Application for a Premises Licence Variation - Unique Convenience Store, Cheetham Service Station, Waterloo Road, Cheetham, Manchester, M8 8GJ**

The Hearing Panel considered the report of the Head of Planning, Building Control and Licensing regarding an application for a Premises Licence Variation for Unique Convenience Store, Cheetham Service Station, Waterloo Road, Cheetham, Manchester, M8 8GJ

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

The Applicant addressed the Panel about the reasons for the application for a 24-hour licence. This was described as to increase sales. The Panel heard that the Applicant had held the licence for 4 years and during this time, there had been no issues at the premises regarding the sale of alcohol. The Applicant explained that all alcohol would be sold through a hatch and confirmed that, at present, one member of staff was on site at night, but this would increase to two should the licence be granted. The Applicant also confirmed on questioning that an application to change the Designated Premises Supervisor (DPS) to the Store Managers should the variation be granted.

The Panel then heard from GMP who had submitted representation to the variation and requested that it be refused. This was because of an existing street drinking and antisocial behaviour issue in the area, which had been confirmed by the local policing team. GMP expressed the view that should the variation be granted, this would exacerbate those problems. GMP also highlighted the premises' proximity to the nearby primary school and the potential detrimental effect on pupils from street drinkers who could congregate should the variation be granted. GMP asked the Panel to note that there were no other premises within a 5-minute drive that have a 24-hour licence and indicated that should a 24-hour licence be granted, the premises would become a magnet for street drinkers. In addition, concern was expressed about the Applicant's status as DPS at two separate sites, adding that whilst it is permissible to be a DPS at more than one site, there were concerns over how time would be split over those sites, especially where one of those premises had a 24 hour licence. The Panel was also invited to note that when the Applicant first applied for a premises licence for this site, a 24-hour licence, with hours of 8am until 11pm being subsequently granted. GMP gave emphasis to the same problems still remaining at large at the location, since the initial application was made.

The Panel then heard from representatives from the Licensing and Out of Hours (LOOH) team who had also submitted representations about the variation. LOOH

representatives also invited the Panel to refuse the variation due to the creation of public nuisance. The main concerns raised were the location of the premises, the negative effect it will have on residents, the litter it would cause in the area and the exacerbation of the street drinking problem. LOOH representatives said that whilst the premises is located near industrial units, it remained in close proximity to a residential area (Cheetham ward) and the nearby primary school. They also asserted that from their experience, this premises was likely to become a destination for late night revellers which could further exacerbate the ongoing litter issue for local residents. They also raised concerns over the potential to significantly disturb nearby residents throughout the night and early hours, undermining the prevention of public nuisance and the prevention of crime and disorder licensing objectives. They expressed a view that the Applicant had not carried out any “due diligence” checks and had not supplied sufficient information in the application in respect of how the Licensing Objectives would be upheld, noting that no additional conditions had been put forward by the Applicant. In terms of relevant case law, LOOH representative reminded the Panel that the case of Thwaites confirms that the expertise of officers can be considered professional opinion based upon their previous experience and it is to be treated as ‘real evidence’. The case of Hope and Glory was also referenced as it confirmed that it is an important decision which illustrates that licensed premises, and the activities that take place within those premises, exist in a dynamic environment and should not be looked at entirely in isolation. Lastly, LOOH representatives asked the Committee to consider the case of Abu Hanif Vs East Lindsey which reaffirmed the principle that Responsible Authorities need not wait for the licensing objectives to be undermined before objecting to a licence being granted.

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.

The Panel firstly, reminded themselves of the main principles needed to consider from the case law submitted by the LOOH’s team when considering such applications.

Secondly, the Panel considered the relevant sections of the Manchester City Council Statement of Licensing Policy which states:

*7.28 Where its discretion is engaged, the licensing authority will give consideration to the appropriateness of hours applied for, having regard to the location of premises and their likely effect on the promotion of the four licensing objectives. While it is recognised that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the licensing authority will consider restricting hours to ensure the promotion of the licensing objectives, subject to relevant representations being made in relation to the hours applied for, should the licensing authority deem this appropriate and proportionate following a hearing.*

*7.29 The authority considers that later hours will typically be more sensitive and higher risk in causing problems.*

- 7.30 *Applicants are strongly encouraged only to apply for hours that they realistically intend to operate, as later hours are typically more likely to attract objections.*
- 7.31 *It is recognised that in spite of the quality of the operation of the business, where patrons are out of the control of the licensee, the lateness of the terminal hour for the premises will often be a contributory factor in the potential for disturbance.*
- 7.32 *Therefore, where its discretion is engaged, the authority will be mindful of the density of residential use in proximity to the premises and the level of risk of nuisance arising. The authority expects that terminal hours will normally be earlier to promote the licensing objectives for licensed premises located in areas with a higher density of residential property.*
- 7.33 *Later hours will generally be more appropriate within the city centre than other areas due to the developed infrastructure in respect of managing a later night-time economy, such as the comprehensive integrated CCTV network, increased access to public transport, cleansing services, and a more visible enforcement presence. In mixed-use environments, such as the city centre, noisier impacts are not always derived from actions of a small number of excessively antisocial individuals but can also come from large numbers of people going about the business of having a good time. While such environments will not be expected to be completely noise-free and peaceful environments, the authority considers that noise affecting residential properties should remain within tolerable levels such that home life remains viable and restful sleep a possibility.*
- 7.34 *Where noise nuisances can be clearly identified as arising from the activities of customers of a specific licensed premises, or there is risk identified upon application of such nuisance occurring, where its discretion is engaged, the licensing authority may reduce the trading hours of licensed premises on the grounds of their noise impact if it is determined that the licensing objectives will be undermined. Where objections are made to the lateness of the terminal hour, it would be appropriate for an applicant to engage with local residents and other parties to try to address the issues raised. The licensing authority would strongly encourage applicants to engage proactively prior to the making of an application and as appropriate when an application is pending.*
- 7.35 *Where its discretion is engaged, the licensing authority will not consider the fact that other premises in the vicinity already have similar hours as a justification for granting similar or extended hours, and each application will be considered on its individual merits*

*Manchester's standards to promote the licensing objectives*

- 8.1 *Applicants are required to set out in their operating schedule the steps they propose to take in operating the premises to promote the licensing objectives.*

*MS5 Prevent on-street consumption of alcohol*

*MS8 Prevent noise nuisance from the premises*  
*MS10 Operate effective cleansing arrangements, including ensuring the premises and surrounding area are kept clean and free of litter, and adequate arrangements for the secure and responsible storage of refuse*

Thirdly, the Panel considered the written application completed by the Applicant. The Panel's view was that the application submitted by the Applicant was very poor. It had no information to show how the licensing objectives will be upheld on a 24-hour licences, save for the alcohol will be served through a hatch. It clearly does not address the relevant standards set out in MCC's Licensing Policy. (Section quoted above)

Fourthly, the Panel considered the evidence given during the hearing. The Applicant did not provide the Panel with any further detail as to how she would uphold the licensing objectives. When questioned during the hearing about dealing with vulnerable people attending the premises and controlling queues at the premises (if they occurred in the late hours) the Applicant was not able to provide any explanation as to what steps/measures she would adopt in such circumstances.

Fifthly, the Panel accepted the evidence presented by GMP (which was unchallenged) that there is currently an issue with street drinker and anti-social behaviour in that area and by granting of this 24-hour licence will only exacerbate this problem. Whilst this Applicant currently has a licence until 11pm and has operated without any issues it was clear from the evidence that being able to provide off sales 24 hours a day is very much a different operation especially in the noise sensitive hours. No evidence was presented in the application nor at the hearing as to how the applicant will deal with street drinking and people gathering at the premises.

Sixthly, the Panel accepted the evidence given by the LOOH team regarding the issues of litter in the surrounding area and by the granting of this licence would only exacerbate this issue.

Finally, the premises is located opposite a primary school and the Panel accept the evidence presented by GMP that "with the premises being directly opposite a primary school GMP are concerned that the premises could become a magnet for street drinkers as it would be selling alcohol earlier than the other off licences in the area which means that they could well be drunk by the time the children begin to arrive for school and this could have a damaging effect on the children attending the school."

For all those reasons the Panel refused the application to vary the licence.

## **Decision**

To refuse the application.

**LACHP/21/52. Application for a New Premises Licence - Special Lahori Ice Bar, 84 Wilmslow Road, Manchester, M14 5AL - now granted - WITHDRAWN**

The Hearing Panel were informed that all objections had been withdrawn and therefore no decision was necessary.