

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Monday, 8 August 2022

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

**Councillors:** Connolly and Reid

#### **LACHP/21/59. Urgent Business**

The Panel agreed to accept two items of urgent business relating to a Temporary Event Notice for NIAMOS and a Summary Review (Interim Steps) for Burnage Cricket and Social Club. The Panel noted that a Temporary Event Notice for Gibbs Grocery Store, 163 Princess Road, Manchester, M14 4RL had been withdrawn.

#### **LACHP/21/60. Application for a New Premises Licence - Dixy Chicken, Ground Floor Rear, 26 Bury New Road, Manchester, M8 8EL**

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties and the oral representations of the parties in attendance as well as the relevant legislation. The Panel was informed that the applicant would not be attending and decided to proceed with the hearing in their absence.

A representative from the Neighbourhoods Team addressed the Panel about the detrimental impact she believed that granting this application would have on the area, including noise nuisance and attracting street drinking and anti-social behaviour. She highlighted the problems with littering and waste in the local area, which her service had allocated additional resources to address, and advised that this premises could add to the existing problems, commenting that the application did not include information on the cleaning arrangements which would be put in place. In response to a question from a Panel Member, she reported that this was a well-known area for counterfeit activities, that there were no other premises with the proposed opening hours in the area and that this would increase anti-social behaviour. She recommended that the application be refused.

Greater Manchester Police (GMP) informed the Panel that the application was poor, lacked detail and showed limited understanding of the licensing objectives and asked that it be refused.

The Panel then heard from a representative from the Licensing and Out of Hours (LOOH) team who highlighted their concerns about the application, as outlined in the document they had submitted. In particular, they highlighted that the two main concerns of public nuisance and littering had not been addressed in the application, with no evidence of how this would be managed, and that the application showed limited understanding of the licensing objectives. The representative recommended that the application be refused. In response to a question from the Panel, the representative confirmed that the premise had been identified as operating illegally on two occasions and that this was first identified about a month ago.

The representative from the Neighbourhoods Team summed up her concerns, highlighting the challenges in this area of the city which she felt this premises would add to.

The representatives from GMP and the LOOH Team stated that they had nothing further to add to their previous comments.

The Panel was of the view that the application and the operating schedule did not adequately demonstrate what steps would be taken to uphold the licensing objectives. Whilst it noted that the premises had CCTV installed that covered the interior and exterior of the premises with a 24-hour emergency security response on standby if required to deter crime and disorder, this was the only condition that had been identified to assist in upholding the licensing objectives.

The Panel recognised the concerns of GMP that there was an absence of conditions that had been applied to provide reassurance that the licensing objectives would be upheld.

The Panel noted that the Premises was located on a main arterial route out of the City Centre and agreed that the premises could act as a magnet for persons who had been drinking which could create noise nuisance and be disturbing for residents.

The Panel noted that the area suffered from littering issues and agreed that to grant the licence could significantly exacerbate the problem. It felt that the applicant had failed to address this issue in its application and were supportive of the concerns expressed by the Neighbourhoods Team. Indeed, no information had been provided as to how the applicant could ensure that the area was kept clean and free of litter.

The Panel also noted the comments of the LOOH Team that the application had only been made following a proactive monitoring exercise which identified that the premises had been found to be illegally trading on two separate occasions without having the correct premises licence in place.

It was felt that by the Panel that, given that the premises was situated on a major busy road, with no obvious parking facilities nearby this could lead to vehicles stopping on double yellow lines with the potential to cause a public nuisance.

The Panel further agreed that if the licence was granted this could exacerbate ongoing issues in the area resulting in a failure by the premises to uphold the licensing objectives.

In reaching its decision, the Panel considered the licensing objectives, Licensing Act 2003, s182 guidance and Manchester City Council's Licensing Policy.

## **Decision**

To refuse the application.

**LACHP/21/61. Urgent Business - Temporary Event Notice - NIAMOS Arts and Cultural Centre, Nia Centre, Chichester Road, Manchester, M15 5EU**

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties and the oral representations of the parties in attendance as well as the relevant legislation.

The representative from GMP addressed the Panel, stating that this event was for the weekend of the Caribbean Carnival, which was one of GMP's busiest weekends, and was billed as a Carnival event so people attending the Carnival in Alexandra Park would then go onto this event. He stated that the application lacked detail, including in relation to how the numbers attending would be restricted, security arrangements and welfare provision. He stated that no further information had been provided from the applicant since the application was received and that, if anything further was received now, there would not be sufficient time to scrutinise new information.

The applicant stated that he had submitted the same application as he had done for a previous event he had put on for the Jubilee, which had been approved. He apologised that no further contact had been made, stating that he was still learning the procedures for submitting these applications and wanted to build a relationship with the Licensing Team and GMP. He also stated that his organisation was volunteer-led and that he had been away. He stated that he had an Event Management Plan which he wanted to present to the Panel at today's meeting which provided the necessary information, including the dispersion policy, security, welfare and event management. He informed the Panel that it would be a ticketed event and that the capacity would be 300, not 475 as stated in the application. In response to a question from the Panel, he confirmed that the hours of the event were the same as for the approved Jubilee event. In response to a question from the Panel, he outlined how they would prevent non-ticketed people from gaining entry, using an accredited security firm and a wristband system. In response to a Panel Member's concerns about disorder outside the venue, which was on a residential road, the applicant highlighted that the entrance was on a different road, away from the residential area and that security guards would move people on. In response to a question about any previous incidents, the applicant reported that he had had to call an ambulance for someone early on at the Jubilee event at his premises but, after that, it had been a successful event.

The Panel discussed the document submitted today, noting that the decision could not be deferred to a later date, due to the proximity of the event, but that the representative from GMP had stated that he would need to take this to his senior officers and that they would need time to consider it.

GMP summed up saying that most Jubilee parties had been peaceful and that this additional information had not been required for those events but that thousands of people would be attending the Carnival and that, even though this was a ticketed event, people could hear through word-of-mouth that there was a post-carnival event and turn up at the venue. He stated that GMP had not seen the new information

provided today and had not had the opportunity to scrutinise this so, in his view, the application should be refused.

In summing up, the applicant acknowledged the lateness of the additional information, due to inexperience with the processes, and reiterated his commitment to working with the Council and GMP. He stated that this event would be part of the celebrations for 50 years of the Caribbean Carnival and that, while after-parties had previously been held elsewhere, he wanted to bring it closer to the neighbourhood.

The Panel agreed with GMP that the document should not be considered for the purposes of the hearing. It should have been disclosed earlier to GMP, other responsible authorities and local councillors.

The Panel agreed with GMP that, based upon the original application, there were significant concerns whether the premises would be capable of managing the event satisfactorily without failing in its duty to uphold the licensing objectives. Whilst it felt that, with sufficient measures put in place, the premises could effectively manage the inside of the premises there was no confidence that the premises could control the activities going on outside the premises in a residential setting. No regard had been given to the dispersal of customers in the early hours of the morning and the Panel had concerns that on-street drinking could occur creating a public nuisance for residents and a fear of crime and disorder breaking out.

The Panel had no confidence that the applicant would be capable of upholding the licensing objectives should the TEN be granted.

In reaching its decision, the Committee considered the licensing objectives, Licensing Act 2003, s182 guidance and Manchester City Council's Licensing Policy.

## **Decision**

To refuse the application.

### **LACHP/21/62. Urgent Business - Summary Review (Interim Steps) - Burnage Cricket & Social Club, Mauldeth Road, Manchester, M19 1AB**

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties and the oral representations of the parties in attendance, including the Premises Licence Holder (PLH) who was attending virtually via Zoom, as well as the relevant legislation.

The representative from GMP informed the Panel that GMP had obtained a search warrant and on 4 August 2022 searched the premises and grounds where they had discovered stolen vehicles, keys, documents, numberplates, class A and class B drugs, weapons, a harvested cannabis farm and a dog on the banned breeds list. He stated that GMP believed that the premises was being used as a base for organised crime. He stated that children attended functions at the venue and could come into contact with these items. He stated that in the past 12 months there had been other

incidents at the premises including fighting, stolen vehicles, noise complaints and violent disorder. He asked that the licence be suspended pending a full summary review.

The PLH disputed information from GMP about the items that had been discovered in the search. He stated that items had been discovered at a separate property - 247a Kingsway – on adjoining land, not inside the premises itself. He also stated that his club had been working to try to reduce crime and gang activity in the area. In response to questions from the PLH, the representative from GMP stated that he knew the information he had presented about the search because he had been provided with this information by GMP colleagues and that he was seeking a licence suspension in relation to items found at 247a Kingsway because the PLH owned the property and it was next door to the premises, which was attended by children and families. The PLH disputed that he could be held responsible for activities at a tenanted property and stated that his separate businesses should not be linked in this way.

In response to questions from the Panel, the representative from GMP stated that the search was carried out on Burnage Cricket Club, its outbuildings and field following intelligence that it was a place where stolen vehicles were taken and that stolen vehicles and the other items referred to were found in outbuildings and on the adjacent land. He stated that he would have expected the PLH to be aware of what was going on, for example, the cannabis farm and that the vehicles were in plain view. In response to a further question, he stated that staff at the premises had not been co-operative with GMP, for example, not being forthcoming with CCTV footage. He confirmed that three people had been arrested on the day of the search.

The PLH stated that he did co-operate with the police and had contacted them about criminal activity in the area. He stated that the club could not prevent criminal activity on the field and had taken the decision to sell it at its AGM in May. The representative from GMP asked why 247a Kingsway was recorded as his address on his licence. The PLH stated that he had moved to Spain and did not realise that he needed to update his address and that he was not aware that he was the PLH as he did not realise that this was different from the Designated Premises Supervisor (DPS) role which he had stepped down from when he moved to Spain. In response to a question from GMP about how often he visited the premises, he stated that it had been a few months since he had last visited as he lived in Spain but that he was in contact by phone and watched CCTV footage from the premises. He stated that the premises had provided CCTV footage when asked and that the CCTV system covered the premises but not the field. The Panel asked him to state the four licensing objectives, which he was unable to do. In response to questions from the Panel, he confirmed that the container on the site in which some of the items had been found belonged to him but stated that it was not locked, was damaged and needed to be removed. In response to a question from the Panel about how he was going to manage the problems with criminal activities around the venue from Spain, he stated that he was in contact with everyone at the club and with the police, held Zoom meetings and viewed CCTV and that, if necessary, he could fly to Manchester. In response to a question from GMP, he confirmed that the DPS lived at the same address but stated that it was subdivided into two floors and that the illegal items were found on the other floor which a different tenant lived on.

In summary, the PLH stated that, while he owned 247a Kingsway, it was separate from the licensed premises and that it had tenants in. He stated that he could not be held responsible for what a tenant did and that the tenant who had been arrested had been evicted. He stated that he had communicated with and helped GMP, including providing CCTV footage. He stated that the only other person who knew how to access the CCTV footage was the DPS but that she had to speak to him first. He stated that a decision had been made to sell the adjoining land. He stated that it was unfair to close the club due to things that had not happened at the club and as he had helped the community and police on several occasions.

The representative from GMP summed up by saying that serious crime had occurred in and around the grounds of the premises and at a property owned by the PLH which he is listed as living at on the licence. He stated that the PLH seemed to be unaware of the issues and unaware that he was the PLH. He asked that the licence be suspended, pending a full review.

The Panel considered all the written representations and those made at the hearing.

The Panel was concerned to note that the PLH did not understand what the four licensing objectives were and that he did not realise that he had been the PLH since 2015. This gave the Panel cause for concern that the PLH would not be capable of upholding the licensing objectives. The Panel was also perplexed that there had been 3 variations of the DPS within 12 months and that during such time the PLH believed he only held the position of DPS and not PLH.

As regards the seizure of drugs and knives from the PLH's property, the Panel was extremely concerned that such activity was being carried out near to the licensed premises.

Whilst the PLH maintained that he could effectively control and manage the premises from Spain, the Panel did not accept this. An example of this was that the PLH stated that he controlled who had access to the CCTV footage but by restricting others, most notably the DPS, the Panel felt that he was breaching the conditions of his licence and the requirement to make such footage available, if requested by the Responsible Authorities.

Furthermore, the PLH accepted that a steel container from which items were seized by GMP belonged to him and this concerned the Panel.

In addition, the Panel was concerned about the arrests that were made at the property 247a Kingsway, Manchester for possession of certain items believed to be involved in serious crime, a property owned by the PLH.

It also noted that the address on licensing records of the PLH was 247a Kingsway and that he was now residing in Spain but had failed to notify the change of address to the Licensing Authority.

The Panel noted the comments of GMP that there was historic and ongoing criminal activity attached to the premises.

In conclusion, the Panel had no confidence that the PLH was capable of upholding the licensing objectives or complying with conditions on its licence and consequently the Panel made the decision to suspend the premises licence pending the full review.

On hearing representations from the PLH that a funeral wake had been arranged to take place at the premises on the 9 August 2022 the Committee agreed to delay the suspension taking effect until the 10 August 2022.

For the purpose of Section 53B(5)(b) of the Licensing Act 2003 immediate notice of this decision was given orally to GMP and the PLH at the interim steps review hearing.

In reaching its decision the Panel have also considered the Council's statement of Licensing Policy, the Licensing Act 2003, the Guidance issued by the Secretary of state under Section 182 of the Act and the licensing objectives.

### **Decision**

To suspend the licence with effect from 10 August 2022.