

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Monday, 10 October 2022

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

**Councillors:** Evans and Riasat

**Also present:** Councillor Wright

**LACHP/21/72. Application for a Premises Licence Variation - Spar, 22-24 Stretford Road, Manchester, M15 6HE**

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 Hearing Panel heard from the Applicant's Representative with regard to the outcome of an earlier request for a significant variation in hours (24hr alcohol licence), which had resulted in a compromise being reached following the outcome of an appeal. This had resulted in the premises currently operating with terminal hours of 1am weekdays and 2am weekends. The Applicant's Representative also made reference to the intention to seek to progressively acquire the hours originally applied for using a staged approach, because of a wide range of local customers who wished to access the store during later hours, and who would seek to purchase a full range of products which included alcohol. She also stated that not all customers who purchased alcohol from the store, did so for immediate consumption.

In addressing the Hearing Panel, the Applicant's Representative invited the Panel to note the Applicant's reputation as a good quality operator who had complied with all of the conditions on the licence. In respect of the representation submitted by GMP in relation to concerns about street drinking, the Applicant's Representative made reference to the absence of supporting evidence to indicate a direct connection with the premises. In response to the submission regarding CCTV footage, clarification was provided in respect of the circumstances leading to the matter.

With regard to the representations submitted by the Licensing Out Of Hours (LOOH) team, the Applicant's Representative again gave emphasis to the absence of evidence to suggest there were issues that were directly associated with the premises. This in the context of the significant period of time that had elapsed since the earlier extension to operating hours. She also questioned the justification for offering a compromise of operating until 4am at the weekend describing it as 'not logical'.

The Applicant's Representative then addressed the Hearing Panel with regard to representations received from a number of local residents, which she described as having 'common themes'. She urged the Hearing Panel to note that that "need" is not a consideration when considering such an application and commented that a

'template format' appeared to have been used to possibly trigger responses to the application. She again highlighted the absence of supporting evidence to attribute any antisocial behaviour or illegal sales to the premises.

The Hearing Panel then heard from GMP in respect of their representation. The officer who attended the hearing explained that, on the application being submitted, he had spoken with the local policing team in the area who had expressed concerns that street drinking in the area would be exacerbated, however he also confirmed that none of the problems were specifically associated with the premises. He however invited the Hearing Panel to refuse the application.

The Hearing Panel then heard from LOOH in respect of their representation. The officer highlighted the growing student accommodation in the area, and described anticipated concerns about a likely increase in noise disturbance due to customers accessing or exiting the premises, noises which emanated from taxis and / or car door slamming, and people shouting at the location as well as issues associated with littering. In response to a question about the basis on which a compromise had been proposed for 4am at weekends, it was explained that that had been put forward purely on the basis that there would be a greater chance of disturbance taking place during the weekdays as people commute to work or to school.

A number of local residents attended the hearing to express their concerns. All residents who had submitted a representation were invited to address the Panel. Local resident concerns centred around an anticipated increase in anti-social behaviour, an exacerbation of alleged criminal activity and noise disturbance and litter in the area. They spoke to the panel about the impact of coping with noise nuisance which occurred during the current late hours, noting that this would be significantly harder to cope with at 4am. A local resident asked the Panel to note that as the Applicant did not live locally, he was poorly placed to comment on the issues that the local community were experiencing on a daily basis. Whilst the community itself was diverse, with some residents whose first language was not English, efforts had been made engage residents and collate the concerns of local residents who were known to being directly affected by noise arising from premises. That informal but coordinated activity had led to the appearance of an alleged 'template' format to local letters of representation. A local resident responded that the lack of supporting evidence of complaints was partly a reflection of availability of police resources and the burden on local residents to report issues given the frequency with which they allegedly occurred. They instead shared information and support concerning ongoing incidents through a WhatsApp group.

The Hearing Panel heard from Manchester Metropolitan University's (MMU) Community Engagement Manager who had also submitted a representation. Her concerns centred around the availability of alcohol for purchase until 4.00am which she asserted undermined the work undertaken by MMU with its students about consuming alcohol responsibly. The Hearing Panel was advised that the university worked closely with local residents to deal with noise complaints, anti-social behaviour and litter in the area which MMU was aware of. The Community Engagement Representative supported local residents concerns that, should the extended hours be granted, this would lead to an increase in public nuisance.

The Hearing Panel then heard from Councillor Wright, Ward Councillor for Hulme, who made reference to the premises being sited in a residential area on a residential estate with a diverse population. She stated that local residents were dealing with the impact of the growing student population in the area, and as such an exacerbation should be avoided. She did not accept the Applicant Representative's description that the premises primarily served the local community, stating that premises would serve as an attraction to customers seeking to purchase alcohol at these late hours from the adjacent city centre, as well as the wider local area.

In reaching its decision the Hearing 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 Hearing Panel was satisfied that the evidence demonstrated that the Applicant was a Responsible Operator and that no hard evidence had been submitted to indicate were any concerns with the premises and how it currently operates. The Panel took into account the staged approach adopted by the Applicant to extend the licence and was satisfied that all four licensing objectives would be upheld.

The Hearing Panel looked closely at the representations and the evidence given by the Responsible Authorities. The Hearing Panel concluded that whilst GMP had stated there was a problem with street drinking in the area, no supporting evidence had been submitted. The Hearing Panel accepted that if it is to consider such an issue, an appropriate level of evidence must be presented so that its extent may be explored. They accepted that, whilst local residents had spoken of the issues with anti-social behaviour in the area, GMP who, as described in the Regulations, are the main source of advice on crime and disorder, had provided no evidence of such.

Next the Hearing Panel considered the evidence given by LOOH which included an agreement for extended hours at the weekend and not on weekdays. The Panel took into consideration that LOOH had confirmed that no complaints or issues with the premises had been received and concluded that the concession made regarding weekends does not relate to the sales of alcohol.

The Hearing Panel then carefully considered the representations and evidence that had been submitted by local residents, MMU and the local councillor. The Hearing Panel recognised that local residents will fear what may happen if later hours are granted, however the Panel is required to make their decision on 'real evidence' that is put before them. The Hearing Panel accepted there were problems in the area with regard to anti-social behaviour but could not be satisfied that any evidence had been presented to suggest a link with this particular premises. The Panel also recognised that many of the resident representations referred to the issue of need and was mindful that that was not a consideration for the Hearing Panel.

In respect of the representation submitted by MMU, the Hearing Panel resolved that whilst is in support of the work the university undertakes to encourage responsible drinking across the student and local community in light of the ongoing problems in the area, no link had been identified with the premises.

In conclusion, the Hearing Panel was satisfied that the licensing objectives will be upheld by this operator and the evidence against the application did not warrant refusal.

**Decision**

To grant the variation, as applied.