

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 14 November 2022

Present: Councillor Hewitson – in the Chair

Councillors: Hilal and Judge

LACHP/23/77. Application for a New Premises Licence - J D S Club, 8 Stocks Street, Manchester, M8 8QG

The Hearing Panel was asked to note that application had been withdrawn from the agenda following agreement of all of the objections.

Decision

To note that the application had been agreed, prior to the hearing.

LACHP/23/78. Application for a New Premises Licence - Players, 228-230 Wilmslow Road, Manchester

The Hearing Panel was informed that the Applicant had submitted a request for today's hearing of the application to be deferred to a future date.

The Panel was therefore invited to decide upon the request to defer the matter. The Panel took into consideration the impact of agreeing to defer, on all parties who had arrived for the hearing, in particular for residents who had submitted a representation to the application. The Panel also took into consideration the relevant legislation (The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) which required that a decision on such a request may only be taken at the scheduled hearing date. The Panel acknowledged the comments of the resident who had attended the hearing and agreed to defer the application to a future date, following consultation with the Applicant about definitive dates.

Decision

To agree to defer the hearing to future date, following consultation with the Applicant about definitive dates.

LACHP/23/79. Review of a Premises Licence - Flamingo Restaurant and Bar, 6 Honey Street, Manchester, M8 8RG

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

In line with the established procedure, all parties were invited to make a statement, followed by an opportunity for questions.

The Panel expressed concern about the numerous breaches of the Health Act (2006) committed at the premises since it opened by both patrons and staff and management of the premises. They noted that the offences had occurred due to the provision of Shisha pipes to patrons by the premises. The Panel took into consideration photographic evidence submitted by the Licensing Out of Hours team (LOOHT) which showed a large number of shisha pipes and equipment and resolved that for a relatively small premises that it appeared to be an important part of the offering to customers. The Panel also noted that a further breach of the Health Act (2006) had been witnessed at the premises following a pre review meeting and following the application for a review of the premises licence.

The Panel also took into consideration evidence concerning numerous instances of the premises operating past its licensed hours. This included recent evidence of a visit by officers on 17 October 2022 at which officers had arrived at the premises at 00:50 to find it was still open with members of the public still inside and should have been closed at 00:30.

The Panel considered evidence from GMP in relation to the calls for assistance that had been received at the premises one of which came from staff and another came from a patron. The Panel gave particular focus to the times at which the calls were made and the nature of those calls. GMP officers had subsequently obtained CCTV footage which demonstrated that whilst no assault had occurred, it confirmed that the premises had been operating outside its licensable hours. The Panel was satisfied that these calls demonstrated the premises was open past their licensable hours on both occasions. The Panel also noted that although there was evidence that CCTV footage had been provided to GMP via Whatsapp on request, there had been instances of non compliance with the conditions concerning the use and downloading of CCTV.

The Panel was informed that the Premises Licence Holder (PLH) had been aware of the need to comply with the conditions since the licence was granted. They were also informed that he had carried out risk assessments and employed SIA security staff when it was considered necessary to do so. However, in response to this it had been established that the premises did not employ SIA staff through an Agency or recognised door company. Instead the PLH had employed individuals himself on a cash-in-hand basis. The Panel noted that this did not enable the PLH to make relevant checks on door staff's SIA status and the Panel was informed that that one member of SIA door staff employed at the premises was not properly authorised to work at a licensed premises.

The Panel heard that the Premises Licence holder was suffering from a bereavement when he attended at the pre-review meeting on 6 September 2022 following the recent death of his father and was unable to focus and respond appropriately to questions put forward by officers at that meeting. The Panel took this into account when making its decision.

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, the Guidance issued by the Secretary of State under Section 182 of that Act, the Licensing Objectives and the relevant case law.

The Hearing Panel was concerned that the Premises Licence holder struggled to respond to questions put to him at the Committee meeting about the practical application of policies such as Challenge 25. The Panel could not be satisfied that he was able to fulfil his responsibilities as premises licence holder given his poor knowledge of the conditions on the licence and the policies he himself had put forward in evidence.

With regard to evidence of the premises operating beyond its terminal hours including after the recent incidence after the pre-review, the Panel discussed the expectation that under such circumstances the premises would be operating in compliance with the licence. The Panel expressed concerns that this had not been the case and concluded that it demonstrated a disregard for the licence conditions. It was clear to the Panel that all previous warnings had not been heeded.

The Hearing Panel concluded that they had no confidence in the Premises licence holders ability or resolve to operate the premises without undermining the Licensing Objectives. Despite the repeated engagement of officers he had ignored numerous warnings and had shown a disregard for operating the premises in compliance with the conditions of the licence and with the Health Act 2006. Therefore the Panel considered it appropriate and proportionate to revoke the licence.

Decision

To revoke the licence on the grounds of prevention of crime and disorder and prevention of public nuisance.