

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 30 January 2023

Present: Councillor Andrews – in the Chair

Councillors: Evans and Lyons

LACHP/23/5. Application for a New Premises Licence - Go Local, 210 Wilmslow Road, Manchester, M14 6LF

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 legal advisor to the Hearing Panel addressed all attendees present for the hearing to confirm that the evidence base used for the Cumulative Impact Policy (CIP) for the Fallowfield and Withington area was no longer current. The Hearing Panel's decision today would be based on what had been presented to them but they would not be able to consider whether the application had any "exceptional circumstances" as referred to within the policy.

The applicant's agent asked where exceptional circumstances were referred to in the policy and the legal advisor stated it was at point 4.7, giving reference to a reason to depart from the policy.

The applicant's agent addressed the Hearing Panel and stated that this was an application for a convenience store situated within a precinct of shops. Previously a kebab shop, which may have been a licenced premises within the CIP zone and therefore, this would not constitute an additional licenced premises if granted today and would be more of a "one in one out" scenario. The unit was empty when the applicants took it on. The applicants are hoping to run the store as a franchise under Go Local, a national store, but will require an alcohol licence to do so. Shoppers often supplement their weekly shop by visiting convenience stores and expect alcohol to be available. If this is not the case it is then likely that shoppers will leave the premises without buying anything and go elsewhere for all of these top-up goods. Alcohol would be 10-15% of the stock within this store, not a huge money maker for the operation but essential due to the previous comments. There are 2 other off-licences in the area but no other convenience stores. Alcohol would not be sold cheaply and no bulk-buy offers would be available as it was not expected that alcohol would be the main thing on the consumer's shopping list. The two applicants (Mr Kaleem and Ms Mahmood) are asking for reasonable trading hours of 8:00 to 00:00midnight to fit in with the aims of the CIP. Mr Kaleem is experienced and has previously been an S.I.A. badge holder/door attendant. Ms Mahmood is in the process of obtaining her personal licence. The CIP is based on information from 2012 and, while this is not wholly irrelevant to current times, it is felt that the application addresses the impacts within the policy. The main components of the CIP are around

students and their behaviour, centring on their ability to gain access to alcohol, particularly in the early hours of the morning. There is no reference to convenient stores within the CIP. The applicants attempted to get information from responsible authorities in September 2022 to help them draft the application around the CIP and received a response 2 months later. Previously, the application had been for a closing time of 04:00, as there is planning permission on the property for this. It was felt that, at midnight, the store would be closed by the time students were returning from nights out to get take-home alcohol to carry on partying. In this way, the store would not contribute to further anti-social behaviour in the early hours. LOOH were incorrect in having said that the application does not address the CIP. The agent expressed that litter would not be an issue as consumers would not fill a basket of goods to then consume in the street. Troublesome shoppers would be easy to detect and could be declined from buying any alcohol. Mr Kaleem has door supervisor experience in this regard. Noise and nuisance had been proposed by GMP as a reason to refuse and referred to "customer movement" being a contributing factor but if the shop is already open and trading until 03:00 and the application is looking to reduce trading hours, how is this creating additional noise. LOOH had submitted a representation partially based on loud music emanating from the premises. When this was checked at the store, it was found to be low level music. The agent pondered why this had been left in LOOH's submission. There had not been any known objections from the residents directly above the store in this location. LOOH's representation around waste control is a matter for planning and environmental protection and the applicant already has a waste contract in place. The agent referred to the "Bristol case" which noted that conditions were not necessary if dealt with by other legislation. The premises would be risk assessed for consideration of door supervision as the applicants recognise there are some challenges in the area. The applicants themselves are competent enough to do this but will also gladly work with responsible authorities. Trained staff, CCTV, signage, lighting and litter picking should help to address any potential issues. In helping assist with a recent murder case, the premises has provided CCTV footage to GMP. Lots of the residents' and residents associations' representations are based around the student population and their transient nature but these are not issues that a convenience store will add to or could possibly address. A comment from Manchester University asked for the number of alcohol retailers to be curtailed but did not address the issue of their own students. Other Universities had patrol wardens, have PSPOs in place etc. and the agent would have expected a more holistic response. The store would contribute to the economy, be staffed by hard working people, serve local wages and there was a character reference for Mr Kaleem from a Councillor in a nearby authority. It was noted that the application should be perceived on the benefits to all, including the licensee, with businesses trying to pay their way and work for local communities. The agent concluded by stating that the application had two sets of conditions for the Hearing Panel to consider making this, in their opinion, an unobjectionable application.

LOOH asked the applicants:

1. If they were aware of the area and its issues?
2. Who they expect to be buying alcohol at the store?
3. If any problems were expected?
4. If they had considered the extra challenges of selling alcohol up to midnight?
5. How they would tackle any issues with problematic customers etc?

The applicants responded:

1. Mr Kaleem stated he was new to the area
2. Everyone in the local area
3. No problems were expected but the applicants themselves do not want any trouble and accept that it is their responsibility to tackle them
4. The applicants were already dealing with inebriated students who were mainly on their way out at midnight.
5. Any drunk customers would be refused further alcohol

LOOH asked what the risk assessment for S.I.A. door staff would mean.

The applicant's licensing agent stated that she had formulated the application with the applicants and didn't feel that they necessarily needed door staff but felt it should be included as a possible measure as a way of addressing issues raised in the CIP.

LOOH asked the applicants what a PSPO is and how this will affect their trading.

The licensing agent felt that LOOH were trying to catch the applicants out by using acronyms and stated the store had already been trading until 03:00 for a year without any issues.

Dr Jones, a resident representing themselves and a member of Manchester University staff, asked:

1. Is this already a Go Local store?
2. What is the demographic of the store currently?
3. What is the balance of permanent residents and students?

The applicants and their licensing agent responded:

1. The applicants are in the process of applying for the franchise and need the alcohol licence first
2. A mix of local residents and students, some morning commuters and weekly shoppers
3. Ms Mahmood stated that she worked the morning shifts and saw a fair mix of both

Mr Roberts, a local resident, asked if the applicants were aware of the demographic nature of the area around the store. The applicants were not aware, and the resident expressed that it was 90% students and that it was concerning to him that they did not know this.

Ms Hare, a resident from Fallowfield and Withington Community Gardens and representing SEFRG, asked the agent if she had visited the area and if she was aware that a local garage had surrendered its alcohol licence. The applicant's agent conveyed that these matters were not pertinent to the application before the Hearing Panel today.

Councillor Lyons asked if anyone from Go Local was at the hearing and the licensing agent stated that she had asked the area manager to attend but they were not available.

Councillor Andrews asked if the store would be part of the Go Local franchise without an alcohol licence and the licensing agent stated that the store wouldn't survive without an alcohol licence. Ms Mahmood then stated that the shop had been partially fitted out but they would need the alcohol licence to have the brand and name attached to the store.

GMP stated that their representation had been based on the CIP and therefore they had nothing to add as it was no longer relevant.

LOOH addressed the Hearing Panel and stated that this application was situated in an area with lots of licensed premises and take aways in the vicinity of the student campus. Due to many previous incidents of anti-social behaviour, litter and crime, the Cumulative Impact Policy had been drawn up and implemented. This would have been adhered to today, if the policy was still current, to show the level of problems already addressed within this policy. The issues are still prevalent and just because the policy is no longer current, does not mean that the issues have gone away. The city council and university fund patrols of the area and GMP also use extra resources due to the level of need in this locality. This application had not addressed the licensing objectives and would lead to an increase in alcohol related problems. The LOOH representative drew attendees' attention to the map in the report showing the streets behind the premises to explain the level of noise, litter, violence and disturbance already experienced in this area. He added that there was a murder in this area in October 2022. In concluding, the LOOH representative said that there were lots of other premises locally with alcohol licences and adding another will likely add to these problems and, ultimately, undermine the licensing objectives.

The applicant's agent asked LOOH:

1. What did they expect the applicants to know about PSPOs?
2. Any noise issues with this premises?
3. How can the Hearing Panel consider this noise issue?
4. Why was the recent murder mentioned? Was it connected with alcohol?

LOOH responded:

1. That they were situated within a PSPO
2. One issue of a noise complaint
3. The matter is still being investigated so may yet be relevant
4. It highlights the level of risk in the area

Councillor Evans asked LOOH:

1. How many issues with the applicants since they took over the premises?
2. Any other premises being investigated?
3. What issues have been raised in regard to noisy premises?

LOOH responded:

1. Just 1 issue to do with the aforementioned noise complaint
2. 2 other nearby premises have had noise complaints from October 2022
3. LOOH have received written information from these other premises stating the noise was from students outside the premises and not from any noise inside

Dr Jones addressed the Hearing Panel and stated that the student halls of residence is situated opposite the premises as well as some private rented property. Staff at the university work hard with the students to educate them in the ways of being good neighbours, giving regard to community, citizenship and good overall behaviour. Disciplinary action can be taken against them. The Manchester Student Homes organisation also works with the students and residents. There have been night patrols plus work with GMP and tactical action partnership sessions with Licensing and GMP regarding student safety and all the issues discussed today. Dr Jones expressed that he would call this a holistic approach, as referred to by the applicant's agent. Residents always have concerns about alcohol licences in the area and always object. One more licenced premises will not be helpful as there have been many incidents over the years in relation to drunkenness. Also, it was not only residents that complained but other students found some of their peers' behaviour to be disturbing. The bus stop at Owens Park is constantly littered with used alcohol containers as the buses do not allow anyone on with drinks. In conclusion, Dr Jones stated that he and others in the area have invested a lot in their operations to tackle problems in the area and asked that the Hearing Panel refuse the application.

The Applicant's agent asked Dr Jones what the percentage is of bad students behaviour and are there well behaved students. Dr Jones stated that Bad behaviour is a constant issue, that they try to convey to them that they want them to be good citizens and that the well behaved students may not buy alcohol from Go Local.

LOOH asked Dr Jones about alcohol decanted into other containers to smuggle onto the bus etc. and asked if this was likely to be bought at a local shop and then mixed at their residences or out on the street. Dr Jones inferred that it was likely to have been bought at a shop and then mixed wherever was most convenient.

Councillor Evans asked Dr Jones if he had worked with outlets and premises on the partnership scheme. Dr Jones confirmed this, stating that LOOH and GMP were on this partnership and they have regular meetings. Councillor Evans then asked Dr Jones if he worked directly with premises and outlets and Dr Jones stated that he did not, but added that LOOH and GMP do and feedback at their meetings.

Councillor Lyons asked if there are any measures taken at the university for students who are known to behave badly. Dr Jones stated that there is a disciplinary process by way of a hearing.

Ms Hare asked Dr Jones about the litter mentioned at the Owens Park bus stop and Dr Jones said there were lots of glass bottles, most certainly as a result of the night time economy.

Mr Roberts addressed the Hearing Panel and stated that he has been a resident in the area since 1985. He noted that the premises and bars frequented by the student population on Wilmslow Road are all very close to residents' homes. The Go Local store would be situated very close to New Zealand Wines, which had its licence granted prior to the CIP being put into effect. The area did not need another alcohol retailer. The 7 streets behind the store are already infested with parties, fuelled by drugs and drink with taxis coming and going, people on the street, shouting and loud music, sometimes up to 06:00. This will get worse if this licence is granted. There

have been several assaults and even a murder in the area now. This premises represents a cynical outfit looking to exploit a party culture. Mr Roberts explained that he has had his car vandalised 8 times and had CCTV proof that students were the caused. There was now a rat infestation. Residents were at the end of their tether and sleep deprived due to the late night disturbance from drunkenness.

Ms Hare asked Mr Roberts how his days felt now that he is retired. Mr Roberts responded, saying that the problems do not only occur at night time. In the summertime, Mr Roberts had counted 200 people walking past his house on their way to the park with alcohol. This created a problem at the local park. Mr Roberts felt that cost was not a major issue to the students.

Ms Hare addressed the Hearing Panel and stated that she was in attendance representing Fallowfield Community Gardens and also on behalf of SEFRG as they could not attend the hearing. There were over 100 people in these groups and they were always looking to get other local residents involved to tackle issues related to the transient nature of students. Ms Hare explained that she has been attending Licensing hearings prior to the CIP and objected to other premises, such as New Zealand Wines. Ms Hare stated that she was disappointed to be told that New Zealand Wines was “over 500m away” at a previous hearing. Alcohol was a large part of the local problems and it made the area abnormal. Lots of local businesses are geared towards the needs and desires of the student population and other, older residents are heavily impacted by this. Ms Hare stated that she was strongly against the idea of another local shop selling alcohol, noting police raids on other nearby shops for selling laughing gas. Ms Hare stated that she had been involved in late night patrols which helped prove that premises were trading beyond their permitted hours but added that it has become too scary to undertake such late night excursions. There were now some homeless hostels too, which caused further concerns about alcohol availability and also lots of violent crime. The drink and pre-loading culture in the area were awful, with many students visiting shops on their way out. Ms Hare stated that the murder victim was probably on their way home from a party when they were attacked at 2am. The area is now under a PSPO but many previous residents have left as they could not deal with the mental stress and lack of sleep. Children would see vomit, evidence of drug use and broken glass on their way to and from school. Business cards have been found that have been handed to students by drug dealers and alcohol delivery services. Students would go into licensed premises and leave with nitrous oxide. Ms Hare stated that, even if the applicants were close family or friends of hers, she would still object. The Owens Park bus stop, one of the largest in Europe, was constantly littered with wine and spirit bottles. Ms Hare stated that the hours of trading were not important as no more alcohol sales were needed in the area, that litter is a huge problem and that there was a demand among students to live in this area due to the party culture there. Ms Hare felt that the onus is on local residents to attempt to stop any further retailing of alcohol in the area.

In summing up, Ms Hare requested that the Hearing Panel refuse the application.

Mr Roberts summed up by endorsing Ms Hare’s comments and asked for no further alcohol retailers in the area.

Dr Jones summed up by saying that all the hard work of local residents would be undermined if this application was permitted.

The representative for LOOH summed up stating that they accept that the CIP is not currently enforceable but that this does not mean the problems have gone away. The impact on the local area would undermine the licensing objectives. He drew on three legal cases, the first being Thwaites, where responsible authority representations had been considered due to being experts in their field. Then the Court case of the Hope and Glory Public House, noting that residents' local knowledge had been considered. The third case was that of Zara's Restaurant, where the key factor was prevention, not relying on licensing objectives being undermined before any action taken. The LOOH rep then stated that local residents have expressed how their lives will be further put into despair if this application is granted. If allowed it would have a detrimental effect on law and order and amount to further public nuisance. The applicant's agent had stated that this was a "one in, one out" scenario but this was not true as the previous kebab shop retailed with late night refreshment and not alcohol. In concluding their summary, the LOOH representative noted that there had been a claim by the applicant that alcohol would not be the main thrust but also that it was imperative to the business being allowed the Go Local franchise name and operations.

GMP had no summary to offer.

The applicant's agent referred to the statements of case law and stated that Zara's Restaurant presented no concerns over what is being discussed today. For the Hope and Glory Public House case, the agent referred to paragraph 42, regarding the demand for licenced premises and economic benefits and in referring to the Thwaites case, the agent stated that Mrs Justice Black proposed the need for evidence and not just speculation, adding that licensing is a light touch regime. The agent expressed that she understood the concerns of local residents and their associations, but she added that to call Go Local a cynical outfit was unnecessary and added that any current drinking issues in the area were as a result of alcohol being supplied from elsewhere, online home deliveries included. The agent reminded all those present that licences can always be revoked if premises fail to meet expected standards. Granting this licence would not add more drunken people as a result but, rather, spread the sales around and added that it would surely be better for any alcohol sales to come from a responsible outlet and take business away from lesser establishments. The agent expressed that cost is an issue or else pre-loading would not occur and added that refusing the application today will not solve any of the local problems. If any issues arise from granting the licence, the licensing agent present today would commit to ensuring that the store operates properly or also, Go Local themselves would have the applicants removed from the premises. As the hearing could not be considered under the CIP circumstances, the test was to meet the licensing objectives. The clientele would not be purely student based as there was a mixed demographic noted in the area. With the current operations stretching to 03:00 it would be better to have the licence granted and scale the hours down so the store ceased trading at midnight. Also, the store would be better run with the 2 sets of enforceable conditions attached. In conclusion, the applicant's agent expressed that there was no clear reason to refuse the application.

In their deliberations, the Hearing Panel 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 accepted that the Cumulative Impact Policy for the Fallowfield area was out of date and could not be applied to this application. In terms of assessing the application itself, the Hearing Panel felt that the hours were reasonable, that the granting of the licence would not add more clients but divide sales over various premises. The Hearing Panel felt that granting the application would be an overall improvement in scaling back trading hours and applying the two sets of conditions therein.

Decision

To grant the application as applied for with the following conditions:

1. On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.
2. A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA 2018.
3. An incident register will be maintained at the premises and made available to the authorities upon request.
4. A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority upon request.
5. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.
6. Notices will be displayed at the entrance/exit to the premises asking customers to leave the store quietly and respect local residents.
7. Staff shall take reasonable steps to ensure people do not congregate outside the premises in such numbers that can cause a disturbance to local residents.

If congregation does arise staff shall take all reasonable steps to move them on from the area.

8. There will be no sales of beer, lager, or cider with an alcohol content above 6.5% ABV in metal or plastic containers. This restriction shall not apply in respect of specialist branded premium priced products, for example craft ales, local or micro-brewery specialist products, boxed gifts or national celebratory/commemorative beer, lager, or cider.
9. Staff shall reinforce that alcohol should not be consumed in the street at point of sale, where appropriate.
10. The licence holder will ensure, as far as is within their control, that the immediate area to the front of the store will be clear from litter.
11. Litter shall be removed from outside the premises at regular intervals and after the close of business.
12. Refuse to be stored in secure bins.
13. Refuse collection not between 2300-0700 so as not to cause a nuisance to residents.
14. All crimes to be reported to police.
15. The premises licence holder will ensure that a risk assessment is completed to determine if door supervisors are required to cover busier periods of the week.