

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 24 April 2023

Present: Councillor Reid – in the Chair

Councillors: Hilal and Hewitson

Also present: Councillor: Wills

LACHP/23/21. Application for a New Premises Licence - Admas Café, 317 Great Western Street, Manchester, M14 4BZ

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 submitted and the oral representations of the parties who attended as well as the relevant legislation.

The agent acting on behalf of the applicant addressed the Hearing Panel and stated that this was a request for a new premises licence for a food led café style premises. Admas Café was an East African community hub for the locality on a parade of shops. A set of recent photographs of the café and surroundings were distributed and showed the new shop front and blue signage notifications of this application. The premises were seeking to include alcohol sales to their offering for the hours of 11:00 until 22:00 with a closing time of 22:30. Conditions had been proposed by the applicant and were included in the printed report and these sought to address any potential issues in the area and also to address the concerns of the Licensing and Out Of Hours Team (LOOH).

The Hearing Panel asked the agent if the next door café had an alcohol licence and the agent was not certain that they did and added that there was an off licence next door.

LOOH addressed the Hearing Panel and stated that they had assessed the likely impacts of granting an alcohol licence, which were concerning waste, criminal activity, drunkenness and the effect this would have on neighbouring properties would be detrimental to their amenity. LOOH noted that, whilst the premises was on a main road, neighbouring residential streets were merely yards away and gave mention of criminal activity in the area. The premises had submitted an application for an alcohol licence in March 2022 and LOOH had recommended a decision to refuse at this time also. 11 residents had objected to the application and this previous application was subsequently withdrawn. LOOH had been informed that the premises had been selling alcohol without a licence and staying open beyond their terminal hour, until 03:30 on one occasion. LOOH and GMP attended the premises to follow up on these claims and found males smoking shisha pipes and others clearly hiding bottles of alcohol under the table when the authorities entered the premises. This, LOOH considered, told of an organised response in case of any official visits. Cases of alcohol were uncovered in a cupboard on the premises and the DPS as cautioned by GMP. LOOH had serious concerns that this blasé attitude would persist at the

premises with them staying open later than their licence allowed and causing noise and nuisance for local residents with further potential for associated criminal activity. LOOH concluded by requesting the Hearing Panel to consider the residential setting of this premises and refuse the application.

The agent asked LOOH if they had any supporting witness statements. LOOH stated that this was a joint operation with GMP who were there as back up in case of any disturbance and had not provided witness statements.

The agent asked LOOH if they had checked identification to support their claim that the DPS was on the premises during their visit with GMP. The agent stated that the DPS was not on the premises that day. The LOOH representative stated that they were not there on the day but that the LOOH member who made the visit would have taken names.

The agent asked if there was any supporting paperwork available from the visit. LOOH stated that they did not have any paperwork. The agent then expressed that this had been raised previously and the LOOH representative again confirmed that, as he was not there during the visit, he could not comment.

The Hearing Panel sought clarity on whether the DPS should have been present and LOOH confirmed that he would not be required to be on site as the premises did not have an alcohol licence.

The Hearing Panel asked if there had been any report from GMP on the matter and LOOH stated that there was not.

In summing up their case, LOOH stated that, based on the evidence in their representations, they had no confidence in the premises upholding the licensing objectives and requested that the Hearing Panel refuse the application.

In summing up their case, the agent for the applicant stated that the application had been made in good faith, acknowledged that the previous application had been poor and added that this was a much more reasonable request. The application now confirmed that this was a food led premises and that alcohol was to be served with meals. The agent expressed that conditions had been added which dealt with LOOH's concerns, in that there would be a Challenge 25 scheme operational, no unsupervised younger staff alone on the premises, signage on leaving quietly, CCTV, refusal log, acceptable delivery time plus noise and vibration mitigation. What was evident was that there had been only one representation, from LOOH, and that this had been written in anticipation of further objections which had not transpired. This showed that this latest application had addressed all other concerns. Regarding the incident whereby LOOH and GMP had made the visit and found shisha and alcohol being consumed, the agent stated that the DPS was not on the premises. This was his brother who had been holding a party on the day and no alcohol had been for sale. The agent noted that there had been no supporting evidence on the contrary but accepted that shisha pipes had been imbibed and this was an error of judgement as the DPS's brother did not know that this was against the law, even with an extractor fan running. The agent stated that the DPS wished to run the premises properly and be a place for the community who are under-represented in

Manchester. The premises would not be the cause of any anti social behaviour and alcohol would be for on-premises consumption only. It was more likely that anti social behaviour would be caused by off licences and not food led venues.

In their deliberations, the Hearing Panel considered that this was a stronger application than the version submitted in 2022, that this was a food led venture and alcohol would be served with a meal and up to a reasonable terminal hour. The Hearing Panel felt that a further condition should be added for alcohol also to be consumed while seated and noted that there were no outdoor tables so no alcohol consumed on the street.

Decision

To grant the licence subject to conditions provided by the applicant and subject to a further condition for alcohol to be consumed while seated.

LACHP/23/22. Application for a Premises Licence Variation - MRH Fallowfield, Fallowfield Service Station, 377-385 Wilmslow Road, Manchester, M14 6AH

The Hearing Panel considered a report from the Head of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties submitted and the oral representations of the parties who attended as well as the relevant legislation.

Sarah Clover, the barrister for the applicant addressed the Hearing Panel and stated that this was an application for an alcohol licence at a fuel garage, that the garage had a licence previously but this was rescinded due to religious reasons in 2015. The barrister stated that the Cumulative Impact Policy (CIP) was not currently in effect and added that the applicants attended a public licensing hearing for a recent application in the former CIP zone which was granted by the Hearing Panel. The barrister stated that the applicant had worked with GMP (who had not submitted any representations) and LOOH who had now withdrawn objections made in January. The MRH group had 859 sites across the UK and some with 24 hour alcohol licences. Two members of the team were in attendance today, Mr Mahon – Head of Range and Space and Ms Walker – Area Manager for this region. Many garages had alcohol licence and there were high expectations for them. MRH ran other nearby garages with licences, some of which had objections against the applications but no complaints since they had been granted. A licensing consultant, Mr Rushton, had been employed to pick up on local evidence ahead of the application. He had also made other observations on other premises so was experienced in his field. The applicants wished to run the premises with control over their licence and have decent operators. They had made note of typical street drinking brands and Mr Rushton had made comments on these and where they were available. The barrister stated that she was aware of the area and concerns of residents but implied that there were other main contributors adding to these negative impacts. It was not useful to leave these premises unchallenged and stop experienced operators from being able to trade. The applicants had a strong process of area managers making sure premises were run correctly, not unsightly, making spot checks of refusal logs and CCTV. The application itself was requesting the sale of alcohol from 08:00 to 22:00 which was a

lesser amount compared to other nearby premises. The reason for the request was that the premises attracts convenience customers looking for a top-up shop, getting fuel and then wishing to purchase food and drink in one place. The premises could lose out on this if alcohol was not available and these shoppers would be likely to go elsewhere. Additionally, in a post-COVID world businesses should be encouraged as this will assist with employment. In terms of the potential for encouraging student pre and post loading drinking habits, granting this licence at the garage would be unlikely to attract this demographic as the price point is high and would not stock a great deal of their kind of products. Also, the timings would not tie in for post-loading as the terminal hour for alcohol sales would be 22:00. The application contained 26 conditions, all tailored to suit any legal issues. No single cans and no beer above 6% would be for sale. The forecourt would be kept clean, loitering would not be allowed and the needs and requirement of nearby residents would be considered. This would all be checked by the area manager and it was felt that no further conditions were necessary. With regards to resident's concerns, the applicant was well aware of local issues and it was notable that GMP were not concerned that this premises was a flashpoint of any disturbances or criminal activity. The barrister stated that the World Health Organisation (WHO) comments around sales of alcohol should not be considered and added the area manager, Ms Walker, would speak soon with additional comments and confirmed that Ms Walker's direct line number would be made available for any comments and complaints from patrons and residents etc. Regarding objectors comments on paper litter strewn around the area, the barrister questioned how the sale of alcohol could contribute to this problem and expressed that the concerns would be more useful when raised at other, less reasonable operators.

Ms Walker stated that there was a customer care team to handle any issues and stated that she would be happy to field any questions about the operations of the premises.

The Hearing Panel asked if the applicants could prove that students would not use the garage for alcohol in the early hours with trading starting at 08:00.

The barrister for the applicant stated that problem drinkers would not be drawn to the premises due to the price point and brands of alcohol on sale. The Fallowfield was not unique in that 08:00 is the standard start time for shopping as in other areas. The premises staff and management already know their customers well and students were not visiting to buy fuel. Students would look to bulk buy from cheaper outlets and would not use the garage for post-loading as alcohol would not be on sale at this time.

The Hearing Panel asked about deliveries and sizes and alcohol percentages.

Mr Mahon, Head of Range and Space, stated that there would be spirits and wine available as well as beer capped at 6%. The barrister stated that deliveries would be available but would be expensive and only available at the same trading hours for on-site sales.

Kattie Kincaid, South East Fallowfield Residents Group, asked if Mr Rushton was paid to do research on behalf of the applicants. The barrister for the applicant felt that

this question alluded to some form of corruption and stated that Mr Rushton was a professional who researched and presented factual information.

Kattie Kincaid then asked why an alcohol licence was being requested for this garage. The barrister stated that it was a matter of customer demand and added that it was not a cheap process. Mr Mahon added that there were 9 sites across the whole range of sites without an alcohol licence (99% of sites).

Kattie Kincaid asked who the customers were likely to be. Mr Mahon stated that it would be impulse and top up purchases for the local community.

Kattie Kincaid asked what the demographic of the area was. Mr Mahon stated that he was aware of the homeless and student demographics and added that it was also a residential area and this was the target.

Sue Hare, Fallowfield Community Guardians, stated that she had been told that the previous owners removed alcohol sales as it was too problematic, and not for religious reasons. The barrister claimed that this was false information and added this came to light when the licence was being swapped.

Fraser Swift, Principal Licensing Officer, addressed the Hearing Panel and stated that he had concerns over this application that he had addressed in his written representations. The applicant failed to detail the impact on the local community and lacked any risk assessments. Training would be required for handling underage patrons, homeless issues and would have to uphold the licensing objectives by addressing these and other potential issues. There was no information provided on alcohol promotions and products and it had been stated that the garage would not be bound by Londis promotions. The area had its own risks, therefore it was important to know and detail any local contexts. If the licence was granted then it was not known what would happen in practice. There had been talk of other premises but the hearing today was to consider heightened risk of alcohol on the residents and individuals in the community. The consultant, Mr Rushton, visited one afternoon has had his experiences levelled with that of local residents and Councillors. The cumulative impacts of this application being granted could lead to an increase in anti social behaviour and crime. Prohibiting the sale of individual cans would not address the issue of sales to the homeless community who are housed in the locality. Safeguards in place at the premises had not been included in the operations manual and the site was set on its own as the first stop on the way towards the city centre. Thorough evaluation of information and concerns of residents over many years should be considered by the Hearing Panel and they should approach this application with prohibition. As a responsible authority, the Principal Licensing Officer closed his statement by saying that high standards were needed and the involvement of the local community. He was not satisfied that the operations of this business would uphold the licensing objectives.

The Hearing Panel asked if the Principal Licensing Officer felt that this application would add to street drinking from 08:00. The Principal Licensing Officer stated that there was a risk throughout the day with current issues of alcohol use already prevalent in the area. A precautionary approach was required and he again highlighted the lack of information on promotions and products.

The barrister for the applicant asked what had not been addressed within the conditions on the application. The Principal Licensing Officer felt that details of the operations, such as what drinks would be available, promotions, training, diligence, checks and logs were not included or clear enough.

The barrister asked if applications normally included examples of logs and products etc. The Principal Licensing Officer stated that each application was dealt with on its own merits and that it would be pertinent if the applicant wished to rely on such details.

The barrister stated that there were two other garages in the vicinity and asked if there were any issues with their trading of alcohol. The Principal Licensing Officer was not aware of any issues.

The Hearing Panel asked if it was the location of this application that was cause for particular concern. The Principal Licensing Officer expressed that the location presented a challenge.

Councillor Chris Wills, Ward Councillor, addressed the Hearing Panel and stated that he had submitted representations on behalf of all three Local Ward Councillors noting high student density and temporary accommodation for those with drink and substance abuse issues. There were already many complaints regarding alcohol abuse in the area. Cllr Wills concluded by referring to the promotion of the licensing objectives regarding noise, nuisance and disturbance.

Kattie Kincaid, South East Fallowfield Residents Group, addressed the Hearing Panel and stated that the location of this application was particularly important. There were people with specific needs directly opposite the garage in temporary accommodation with drink, drugs and mental health issues and these scheme was potentially due to be expanded in the area too. There are 27 houses behind the garage, 3 of which were for long term mental health housing. These were well managed but the residents were very vulnerable and were regularly out on the street. Additionally, there was also a home for vulnerable adolescents making this a very atypical area. 100+ students also resided in the locality with other streets around the garage having a similar demographic. Mr Rushton did not make a thorough check of the local area, having not visited nearby streets and Ms Kincaid felt that he did not know the area as well as local residents. The local Sainsbury's has more of a security presence and would deter vulnerable people more so than the one member of staff at the garage. The likelihood that not selling alcohol would deter patrons from buying other goods was not convincing and selling alcohol from 08:00 in this area will not help the current issues. Although the licensing laws state that a premises does not have to improve an area it should not be allowed to make it any worse either. The homeless shelters are not allowed to have deliveries and the availability of alcohol on the doorstep is likely to increase street drinking. The sale of spirits was of particular concern for the vulnerable residents in this area too. The area also had many Houses of Multiple Occupancy (HMOs) and AirBnBs and their transient nature made the inhabitants less concerned over their surroundings. Ms Kincaid expressed her disbelief at the lack of any objection from GMP as they are constantly called out to a nearby shelter hotel. It was lamentable that the Cumulative Impact Policy had lapsed

and, as residents, this was not their fault and may lead to residents and local groups having to organise reviews which was a stressful process. The applicants could not know how difficult the area is for local residents and Ms Kincaid asked the Hearing Panel to consider the damage to the community in order for this business to make 10/15% extra profit.

There were no questions put to Ms Kincaid.

Sue Hare, Fallowfield Community Guardians, addressed the Hearing Panel and stated that she had lived in Fallowfield for 30 years and is a member of the 30 strong Guardians group and also representing Withington Civic Society today. It was expressed that the residents were horrified at the prospect of another off licence trading in the area. Ms Hare stated that the concerns were less around student drinking and more on daytime street drinking and in local parks which would be further facilitated if this application was granted. Concern was raised for the residents of homeless hostels in the vicinity and litter associated with street drinking, leaving gardens and bus stops unsightly. One of the group members had trouble with street drinkers sitting on his wall, urinating and littering his garden. Ms Hare felt unsafe, even in the daytime and told of the effects this has had on her. Ms Hare expressed that the residents groups she is involved in were active in their attempts to keep the local area clean and tidy but added that this was demoralising, as they have found hidden knives, condoms and broken glass. Ms Hare concluded by stating that the residents groups have taken on a lot of extra work and tackled many issues and felt that the licensing objectives would not be upheld if this application were to be granted.

The Chair invited all parties to summarise their individual cases.

Ms Hare summarised for herself and on behalf of residents groups, by stating that this application would be disastrous for local people, many of which were looking to move out of the area due to the difficult and transient nature and associated issues they bring.

Councillor Wills summarised by supporting Ms Hare's and Ms Kincaid's comments and wished to draw attention to the plight of local residents. As a Councillor, he expressed that the health and wellbeing of all the city's residents were of deep concern.

Mr Swift, Principal Licensing Officer, summarised by asking whether granting this application would uphold the licensing objectives when there are specific risks to vulnerable people. He added that he did not feel that a strong supporting case had been made in favour of granting this application and asked that the Hearing Panel refuse the request.

Ms Clover, acting barrister for the applicants, referred to the lack of responsible authority objections from GMP and LOOH, the Thwaites case law and guidance which stated that the police are experts on law and order, the prevention of crime and disorder and added that, without objections from the responsible authorities, scrutiny of the operations were still necessary. She referred to the presence of the Principal Licensing Officer but questioned why he was not satisfied with the issue of

promotions and products when this has not been standard procedure to provide such details for other applications. It was felt that there were no genuine concerns backing up Mr Swift's comments. The operators had other premises nearby and all associated training, products, promotions would be near identical. It was noted that Mr Swift could have asked for these details ahead of the hearing and these would have been provided. All records will be available for responsible authority checks – sales conflicts, ID issues etc. and training was as standard across the group's operations, as were the products on offer. Ms Clover referred to other premises having drawn 50 or so objections to their alcohol licence applications but then no actual concerns or complaints raised once operational. There was no evidence presented to support any claims that people were congregating on the garage forecourt and Ms Clover was satisfied that all attendees agreed that student drinking was not a concern. It was not necessary for the premises to have to improve the area, nor would it exacerbate local issues. If the 08:00 start time was of concern then the Hearing Panel could alter this but would need to provide evidence/reasons for doing so. Objections had been raised stating that the premises were not aware of local issues but this was incorrect as the area manager was often on site, the applicants ran other nearby premises and were already running the store. Only 6 of the applicant's 800 premises were without an alcohol licence and this was due to the convenience led nature of the business. Local residents and groups had not tackled the issues of poor traders in the area and the sales of single cans were a problem. The price point for street drinking was a motivating factor and it was expressed that this demographic would not simply visit the closest store but instead, look for the best deals. No representations had been received from the administrators of the housing shelters nearby and it was raised that residents can start a review process for any premises that do not uphold decent values. The other premises operational under the applicant's business had not had any reviews brought against them and this told a clear story of their successful operation style. Litter picking, training and a cut of point of alcohol sale at 22:00 showed that the applicant knew their local customers well. Ms Clover referred to the Hope & Glory case, paragraph 42, offering a range of decisions available to the Hearing Panel.

In their deliberations, the Hearing Panel took into account the local issues raised by the residents/residents groups and Councillor Wills regarding homeless shelters and vulnerable adults in the immediate vicinity. Whilst noting that this was a reputable operator, the Hearing Panel felt that additional conditions to deter the potential for alcohol abuse and misuse were required in granting this application. As well as the conditions set out in the application and the condition agreed with LOOH, the Hearing Panel added conditions to alter the trading times for alcohol to commence at 10:00 until 22:00, to remove the sale of miniature bottles, to have alcohol screened and hidden after trading time had ceased and for no bottles of spirits or wine at a quantity below 35cl to be available for sale at the premises.

Decision

To grant the application for hours of sale of alcohol from 10:00 – 22:00 daily.

With conditions consistent with the operating schedule as set out in the application and with the condition agreed with Licensing out of hours as set out below:

- Where necessary customers shall be reminded to have regard to the needs of local residents, to leave the premises quietly and swiftly once they have completed their purchase.

Also with the following conditions imposed by the Committee:

1. Outside of permitted hours for sale of alcohol all spirits (save for spirit mixers) kept behind the counter shall be covered by shutters, screens, blinds or similar.
2. No bottles of spirits or wine at a quantity below 35cl will be available for sale at the premises.