

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Wednesday, 31 August 2022

Present: Councillor Grimshaw – in the Chair

Councillors: Flanagan and Reid

LACHP/21/66. Summary Review of Premises Licence - 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), Mr Lee Pepper who was attending virtually via Zoom from Spain, as well as the relevant legislation.

The representative from GMP informed the Panel that the PLH, Mr Pepper, had held the licence since 23 April 2015. Mr Pepper was also the landlord of a dwelling on the site of Burnage Cricket and Social Club where the DPS, Ms Henderson is a tenant. GMP then referred all attendees to the supplementary agenda, containing a historical account of incidents and crime reports. Previous incidents were Violent Disorder on 3 July 2021, disturbance at 02:40 on 8 August 2021, Harassment on 29 August 2021, GBH and ABH on 6 March 2022 and the search of the premises on 4 August 2022 which led to the Summary Review. A list of aggravated burglary of vehicles then found on the premises was also presented to the Hearing Panel. Also, known criminals were noted as being on the premises during police visits. During the raid on 4 August 2022, police gained entry to the white outbuilding where the DPS was found with other persons who all claimed that they lived there. The search took place in this building with police finding offensive weapons, a dangerous breed of dog, a DVD containing extreme bestiality footage, cocaine, heroin, MDMA, cannabis and a harvested cannabis farm. Further searches of the wider premises revealed more offensive weaponry, stolen vehicles (one linked to a stabbing and robbery), stolen number plates and numerous stolen car keys. The Interim Steps hearing was carried out on 8 August 2022, with the PLH claiming that he did not know that he was the licence holder. The Hearing Panel's Interim Steps decision was to suspend the licence with effect from 10 August 2022 to allow Burnage Cricket and Social Club to hold a wake on the following day, 9 August 2022. During this wake a fight broke out and the police received a call from a female asking for help. Following this, on 13 August, a victim had contacted the police regarding the wake on 9 August 2022 to state that she had been approached by 2 females who, between them, grabbed the victim by the hair and then threw a glass in her face which required hospital treatment. Afterwards, it transpired that there was no CCTV footage that covered the field area of the premises where the first of these incidents took place.

The PLH put questions to GMP about what vehicles had been found on site, vehicle whereabouts on site, incidents/arrests, CCTV footage, where the keys had been found (citing that there was a lost property jar full of keys), whether there was proof

that cannabis had been grown in the attic area, who lived in the tenanted property, the breed of dog, whether arrests had been made and whether it was fair to tarnish the reputation of the club since 150 or so events had been held without incident.

GMP responded stating that 4 cars and 1 motorbike were seized, that vehicles had been recovered in various areas of the site, that CCTV had not been provided which had made arrests more difficult, that keys had not been recovered from lost property, that GMP were not aware of whether the people claiming to live there were actual tenants but confirmed that Ms Henderson was a tenant, that cannabis leaf litter and components of a cannabis farm had been recovered, that the dog was a banned breed of pit-bull that was not destroyed but given back to the owner but would have to wear a muzzle, that arrests had been made for Class A possession and tests were being made on the substances and that GMP did not know how many events the premises had held over the years.

The Hearing Panel put questions to GMP regarding the height of grass on the field, gated entrances, blockages of entrances, where the PLH was registered for his licence, the residential property, whether the samurai sword was a replica or true offensive weapon, confirmation of drug classification, whether Mr Pepper was responsible for the whole complex within the boundary of the Club, who should provide CCTV footage and how likely it was that Mr Pepper knew about stolen vehicles on site.

GMP responded stating that the field was not used for cricket but added that the grass was not long enough to hide vehicles, that the premises was gated to Mauldeth Road but large enough to drive vehicles in, a van had blocked access to this entrance, that Mr Pepper's Premises Licence was registered at 347/348 Kingsway yet he resides in Spain, this property was also part of Mr Pepper's company, that the samurai sword was not a replica, that cocaine, heroin and MDMA seized on the premises were Class A drugs, that Mr Pepper was responsible for the whole complex, being PLH of the club and landlord of the rented property, adding that Ms Henderson was a tenant of the property, that CCTV footage should be available from staff members on site and that Mr Pepper controlled the CCTV from Spain which was very unusual and that it would be odd to have a strangers motorbike in your bar and not be aware of it.

LOOH addressed the Hearing Panel and informed them that the premises had a history of breaches and poor management leading to a negative impact on the local area. There was no continuity as staff in the DPS post came and went. The premises had gone under various names such as "Danny's Yard" and others. There had been 46 complaints since the licence was granted, 40 for noise and 24 separate complainants. Under the lockdown "rule of 6," LOOH had been called out to the premises and discovered 30+ attendees. After the rule of 6 legislation, there were more noise complaints regarding loud music outdoors. LOOH were not able to visit and wrote the DPS. A further noise incident was reported, LOOH attended and were told it was a wake and the noise was turned down. The next day 3 more complaints came in regarding further noise and heavy bass. LOOH spoke to the DPS and were told that she had only been the DPS for 1 and a half days and did not know where the PLH was. A further incident of noise until 03:00 was reported and an online post from the club stated that they were licensed until 03:00, which was untrue. After a

further two incidents in August and September 2021, LOOH wrote to Mr Pepper regarding a pre-review meeting, feeling that all avenues had been exhausted. The meeting took place, attended by PC Isherwood and Mr Pepper and no further complaints were received until February 2022. LOOH contacted the new DPS, Mr Ward, in late February and again in March 2022 regarding loud music breakout from the premises. LOOH had parked up 50 metres away with windows up on the car and could still hear the noise emanating from the club. Information was then received that Mr Pepper was away and that the premises was being run by local dealers with drug and sexual activities being on public display. The DPS was spoken to and a Licence Inspection carried out due to the premises being in breach of licencing conditions. This was sent to Mr Pepper. In April 2022, LOOH were told by Mr Ward that he was no longer the DPS and this position had now passed to Ms Henderson. A further noise complaint was investigated and, in June 2022, Ms Henderson stated that the club was up for sale. In conclusion, LOOH stated that there had been a list of ineffectual DPS staff members since 2019, that noise issues were ingrained at the club, that Mr Pepper is employing these DPS staff members and is therefore at fault, the club has had a negative impact on the local area for many years now and this was likely to continue if allowed to keep the licence. LOOH requested that the Hearing Panel revoke the licence.

Mr Pepper put questions to the LOOH representative and asked if they agreed that some of the complaints were from nuisance callers, whether there were noise complaints in February and March of 2022, that the previous DPS staff members were bad decisions but asked if Ms Henderson was more effective in running the club, whether LOOH officers record noise at the Kingsway entrance, whether staff had agreed to patrol the premises since noise complaints had been received and whether the log book was being used.

LOOH responded to Mr Pepper stating that the notion of nuisance callers was his opinion, that there were no noise complaints in February and March of 2022, that Ms Henderson had not been effective enough as the current DPS, that LOOH officers walk around the premises to record noise, that staff were not patrolling the premises themselves and that the log-book was not being filled every day.

The Hearing Panel then put questions to the LOOH representative, asking if it was odd for Mr Pepper to not be aware that he was the PLH, whether Mr Pepper was present at the pre-review, whether he knew his responsibilities as PLH, whether the condition regarding CCTV had been upheld, whether 46 complaints are likely to be false, what kind of complaints had been raised, what the duration of complaints had been and if any prosecutions had been made as a result of a breach of lockdown rules.

LOOH responded stating that it was very unusual for a PLH to be unaware of their own status, that Mr Pepper had attended the pre-review meeting, that Mr Pepper had not been responsible in employing people to the DPS role, that CCTV was obtainable when Mr Pepper was on site but that there had been clear breaches of the CCTV condition since, that it would be odd for all 24 complainants to be false, that there had been complaints regarding anti-social behaviour and drug dealing, that the last 16 months had been the worst period for complaints and that they were not aware of whether prosecutions had been made regarding breach of lockdown rules.

Mr Pepper, as PLH, addressed the Hearing Panel on a video call from Spain. The PLH stated that he stepped in 7 years ago, after being asked to help out as a known festival organiser and charity worker. He had helped the club, putting on an event and raising £20k for funds. He admitted being initially naïve on legal matters with the first event but noted that the Mayor of Manchester and Head of GMP praised his efforts and assisted him in community efforts. The PLH admitted that the event had raised noise complaints. The DPS stated that a local neighbour wanted to buy land off the club and, having been declined, now had a vendetta against him and the club, raising false objections and complaints. He apologised to any other genuine complainants affected by the club, stating that he has invited them in but they have never attended. GMP had attended events in the past and he has worked with them, employing local youths who had been burgling nearby houses. He had been saving up to block off the large entrance on Kingsway where people drive cars onto the premises and fly tip, but the pandemic has had a negative effect on funds for this purpose. Regarding the police raid and consequent summary review, the PLH stated that GMP are making the club seem responsible because of findings at the rental property on the same site, adding that the land that the rental property occupies had not yet been transferred off the licensable area. The PLH stated that the offences were out of his control as he only has CCTV covering the perimeter. Regarding the Kingsway entrance, this is 14 meters wide and he has tried to block it off with a van to stop fly tippers etc but it is not big enough. The PLH stated that he was glad that the police had recovered the offending items and charged people involved, but denied that the property is an HMO. He stated that he was aware that he was the PLH and knew his responsibilities in employing effective DPS staff. The PLH stated that he had now removed the blue container, evicted a criminal tenant, had new CCTV in preparation and had discussed funding new gates for the Kingsway entrance. Regarding stolen cars, the PLH said it was not unusual to have cars left on the car park for long periods which was out of his control. Whilst noting various incidents, the PLH stated that there had been no arrests. In conclusion, Mr Pepper stated that he was looking forward to the future of the club and happy to comply with requests.

GMP and LOOH put questions to the PLH, asking when he was last at the premises, what happened at the opening event, who owns the land at the old petting zoo where a stolen motorbike was found, what the nature of a visit from Manchester City Council had been for, whether CCTV had been provided to GMP, whether he had witnessed any incidents on the CCTV whilst monitoring from Spain, whether it was news to him that the premises was involved with criminal activity, how he felt about the 24 complainants and why he was in Spain for the hearing.

The PLH responded, stating that he was at the premises 2 weeks ago for a family event, had not implemented an outdoor licence for the event 7 years ago, that he owns the land at the old petting zoo site, that MCC came to see if the property was an HMO, that Ms Henderson had, to his knowledge, provided all CCTV footage requested by GMP, that he had witnessed a few scuffles on CCTV, that CCTV did not cover the house or field so he was unaware of criminal activities, that 24 complainants was not much when considering the residential surroundings and that he was in Spain to attend to a family matter.

The Hearing Panel put questions to Mr Pepper, asking if he was qualified in festival/event management, if he was unaware of the necessary licence requirements for such an event, whether the rental property on site was an old outbuilding of the cricket ground, whether the rental property was under the licence of the club, whether he accepted the 46 complaints against the club, how the club managed the wake on 9 August 2022 after a female had a glass thrown at her face, if he had updated his registered address when the rental property was built in 2019, when he moved out of that property, why the registered address had not been updated, where the DPS lived in the property, others living at the property, was the DPS living with criminals, if the PLH could recall the 4 licensing objectives, why he was confused about whether he was the PLH at the previous hearing, whether the premises had been run well previously, whether CCTV footage had been provided to GMP after an incident in March 2022, whether he disputed the findings of weapons and Class A drugs, whether he felt responsible enough to uphold the licensing objectives, whether the DPS was aware of criminal activity in the rental property and whether the criminals were in control of the club.

The PLH responded, stating that he had previous experience in event management, that he had been misinformed about licensable activities when he first started as PLH, that the rental property was built in 2019, that it is not under the licence of the club but owned by him, that there were no facts confirming the 46 complaints, that the club closed immediately after the incident at the wake, that he had updated his registered address on the licence in 2019, that he moved out in February 2020, that it was an error not to have updated the licence details when he moved to Spain, that the DPS lived on the top floor of the rental property, that there were 5 others in the property, that the DPS had been living with criminals, that he could recall 2 of the licensing objectives, that paperwork was not his strongest skill, that the previous DPS had erased CCTV footage but the current DPS does everything necessary, that CCTV had not been provided in March 2022, that he agreed the findings of drugs and weapons at the property, that he has tried to keep control of the club but cannot monitor events at the private rental property, that the DPS had been bullied and controlled by other tenants and that criminals were not in control of the club.

In summary, the PLH stated that he has tried to make the premises a community space and is upset that GMP have tarnished the club with events linked to the rental property, that the DPS has had a difficult time, that PCSO patrols had decreased, leaving the club at further risk and that closing the club would be a disaster.

LOOH summarised by stating that they have tried to work with the club and felt that it would have resulted in a review if the police had not carried out the raid. The previous DPS was under criminal prosecution and that there had been a lack of CCTV due an attempt to burn the club down. LOOH asked the Hearing Panel to consider what kind of premises and PLH would allow for such a string of failings.

GMP summarised by stating that there had been a history of violent incidents which undermined the licensing objectives, which was concerning as it is used by local families with children. The PLH did not have control over the premises and it was clear that there was criminal activity on the site. After the Interim Measures hearing, the premises were given a period of grace to hold a wake and yet another violent

incident had occurred. Also, the DPS was involved with gang activity. GMP requested that the Hearing Panel revoke the licence.

The Hearing Panel was referred to the s182 Guidance paras 11.27 and 11.28 and agreed with GMP that the premises had become a base for the organisation of criminal activity, particularly by gangs and that the Hearing Panel should use its review procedures to deter such activities and crime.

Whilst the Hearing Panel noted the comments made by the PLH that the breaches of its licence conditions and the premises' failure to uphold the licensing objectives were attributable in a large part to the failings of a previous DPS it was firmly of the view that ultimately responsibility lay with the PLH to ensure that the premises was appropriately managed.

In conclusion, the Hearing Panel accepted that the premises are associated with serious crime and had no confidence whatsoever that it could uphold the licensing objectives or comply with the premises licence conditions.

The Hearing Panel considered the options available to it under S53C but felt that given the long history of public nuisance, failure of management to heed repeated warnings issued by LOOH together with serious crime and disorder issues raised by GMP, was of the view that the only step it could take to ensure that the licensing objectives were being upheld was to revoke the premises licence

Decision

To revoke the premises licence on the grounds of the prevention of crime and disorder and public nuisance pursuant to S53C (3) (e) of the Licensing Act 2003.

Interim Measures

The PLH's attendance in Zoom had ceased after the decision to revoke was announced. Therefore, the Hearing Panel gave the PLH the opportunity to be contacted to re-join the meeting. The PLH was contacted by a member of the Premises Licensing Team who reported back to the Hearing Panel that the PLH's Zoom link had crashed and that he asked to be informed of the decision by email.

GMP addressed the Hearing Panel and requested that the suspension remain in place.

The Hearing Panel considered the representations of all parties, however having considered the decision to revoke the licence and the reasons for it, the Hearing Panel deemed it appropriate for the promotion of the licensing objectives of prevention of crime and disorder and public nuisance, that the licence remains suspended pending its decision coming into effect.

Interim Measures Decision

To uphold the suspension.