

## **Licensing Sub Committee Hearing Panel**

### **Minutes of the meeting held on Monday, 19 June 2023**

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

**Councillors:** Evans and Hewitson

#### **LACHP/23/43. Urgent Business - Eva, 27 Sackville Street, Manchester, M1 3LZ - Temporary Event Notice**

The Chair agreed to the submission of the above application as consideration of Urgent Business.

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

A notice had been received by the Local Authority in respect of a Temporary Event Notice (TEN) to use the pavement space immediately outside the venue on Sackville Street along the front elevation of the building and also to the side elevation on Richmond Street and Bloom Street.

An objection notice had been received from Licensing and Out Of Hours (LOOH) on the basis that to allow two extra bars on the Richmond Street & Bloom Street sides of the premises would take up extra room at a pinch point which would obstruct the public highway where people could walk through or rest and would undermine the Licensing Objective (LO) of Public Safety.

A representative of the LOOH team advised that the premises had a large outside bar as well a Glitter and stage area. The TEN involved two additional bars and in view the increased popularity of PRIDE, the proposed additional bars would take up space where people would stand. She also made reference to previous objections to TENs during PRIDE, a verbal agreement was reached with each premises that an additional stage and a bar could be accommodated as long as they were within the parameters agreed. It became clear upon questioning however that the premises had not been part of that collective agreement and had no knowledge of it.

The Applicant confirmed that he was the Designated Premises Supervisor and operator and had been for seven and a half years. He outlined that these events were key to survival, that the LO's and the safety of his staff would be upheld. He added that he employed 25 people, including more Security Industry Authority (SIA) staff than his licence required, operated Challenge 25 policy, and used metal detector wands and body cameras with audio recording. The premises had had previous TENs in 2019, 2021 and 2022, (2020 being COVID year and therefore not applicable).

The bars were the size of one of the Committee tables/desks and were mobile units. The nature of the event was that people would move around and that the location of the bars would be located had no specific entertainment scheduled and therefore people could get a quick drink and move on. The Applicant stated that he believed he had addressed the objections by way of barriers and staffing. He accepted the area was congested but that this was applicable to the whole area during PRIDE. He asserted that there was no intention to put his livelihood or his staff at risk and gave emphasis to GMP having not served an Objection Notice

In reaching its decision the Committee also have 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 Panel took into consideration that the roads in the area would be closed during PRIDE and that patrons of the event would be circulating and moving from venue to venue.

The Panel also took into consideration that no issues had been raised in respect of the Operator/DPS and that no Objection Notice had been received from GMP. The Panel resolved that the Applicant was a good operator, with a good track record. The Panel also resolved that capacity would not be impacted by the placement of the two bars, (based on the approximate size details provided) and was satisfied that the event as stated would ensure the promotion of the LO of Public Safety. The Panel resolved that the Licensable activities could proceed as stated in the Notice and agreed not to serve a Counter-Notice.

## **Decision**

To agree not to serve a Counter Notice.

### **LACHP/23/44.      Application for a Premises Licence Variation - Area, 50 Sackville Street, Manchester, M1 3WF**

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

An application had been received vary the current licence as follows: -

1. Extend the terminal hour for the sale of alcohol, regulated entertainment and Late Night Refreshment (LNR) to 0500 hours (the following day) on a Friday and Saturday. (Current hours 0300)
2. To extend the hours the premises is open to the public to 0530 hours (the following day) on a Friday and Saturday, (Current hours 0330).

The premises was formerly known as Tribeca and had been renamed 'AREA' following a takeover by RVLC Limited in August 2022. Several Temporary Event

Notices had operated until 0500 without incident or any issues arising, leading up to Christmas

It was submitted that RVLC Limited ('the company') comprised of experienced operators originally based in London with a number of premises, including two on Canal Street (Mantos and Vanilla). This being the company's third venue in Manchester would allow the pooling of resources of 8 qualified Premises Licence Holders across the group in the city. An outline of the proposed operators' range of experience was provided. An intention to use the premises as a LGBTQ+ community asset was also asserted. A complete refurbishment of the venue had been undertaken, including the commencement of a complete overhaul of acoustic works in view of the previous history of noise emanation. A copy of the acoustic assessment report was submitted for information. The Applicant advised that the 05:00 terminal hour request was to provide parity with other venues and remove the notable disadvantage. The venue had addressed dispersal and the Management policy was included with the application documentation. There had been no police reports inside or outside the venue.

There had been 10 initial representations regarding the application, when the application was originally submitted in January 2023. Those representations had resulted in the operators engaging with local residents because of historical issues with the former premises, Tribeca. Those discussions had led to the overhaul of acoustic works.

A resident attended the meeting and accepted that the Applicant had spent a lot of money and energy in soundproofing the venue and working with local residents.. He confirmed that there did not appear to be any problems with the sound levels anymore, and instead were more focused on the dispersal and loitering in the vicinity after the premises had closed. He requested the venue put in place patrols around the perimeter of the building as part of the Licence conditions between midnight and closing time and highlighted that one of residents still had problems with noise outside and there were some problems with smoke rising from people smoking outside. He also stated there were issues with the fencing outside but accepted that the Applicant made efforts to try to stay within half the width of the pavement. He added that he felt that the Council needed to consider removal what was described as superfluous street furniture and undertake work with taxis which tended to routinely congregate and/or park on double-yellow line road markings at specific sites.

In reaching its decision the Committee also have 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 Panel took into consideration that all of the local resident representations had been received prior to the completion of the soundproofing/acoustic works and that following those works, only one noise complaint had been received in early March 2023. The Panel also took into consideration the local resident's concession that the venue had worked very hard and engaged with residents.

The Panel did not attach any weight to the representations referencing the 'likelihood of the sale of illegal substances increasing' 'Mass brawls' and other behaviours as these were the subject of speculation and without supporting evidence generally and specifically as to whether these were attributable directly to the premises given the density of venues in the locality.

The Panel took into consideration noted that the new operators had been in the venue since PRIDE in August 2022 without incident and that no representations had been received from the Responsible Authorities.

The Panel took into consideration that the venue operated an informal 20-minute interval perimeter patrol but resolved that it was not appropriate to make this a condition as patrol staff did not have any powers of detention and should report any matters of concern to the police in any event as well as being mindful of their personal safety and employer's insurance.

The Panel was mindful that the residents had been provided with the Duty Manager's mobile telephone number and email address, and was satisfied with the content of the Entrance & Dispersal Management Policy that had been submitted, including the breadth and detail that the policy contained to address the concerns regarding the dispersal element of the representations.

The Panel considered the Applicant to be an experienced operator with a good track record and one who had engaged with the local residents and addressed the noise concerns as far as possible.

In view of the above, the Panel resolved that the application for an extension of the hours to 0500 would not undermine the promotion of any of the Licensing Objectives subject to the following additional conditions being added to the premises licence:

1. There shall be a documented dispersal policy, as agreed with the relevant responsible authorities, implemented at the premises and a copy lodged with the Council's Licensing Unit.
2. There shall be no admittance or readmittance to the premises after 0400 hours on a Saturday and Sunday

## **Decisions**

To grant the Application as applied for with the following additional conditions:

1. There shall be a documented dispersal policy, as agreed with the relevant responsible authorities, implemented at the premises and a copy lodged with the Council's Licensing Unit.
2. There shall be no admittance or readmittance to the premises after 0400 hours on a Saturday and Sunday

**LACHP/23/45.      Application for a New Premises Licence - Affetto Food Ltd,  
386 Barlow Moor Road, Manchester, M21 8BH**

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

In line with the established procedure for such hearings, the Applicants addressed the Panel and explained that they intended to open an Italian deli/restaurant on the junction of Barlow Moor Road and Maple Avenue.

The Applicants had two further premises in Didsbury Village and Wilmslow both of which had operated without any issues and had attracted a loyal customer base. The Applicants were therefore keen to enhance the local area with this Application and minimise any existing issues.

The initial Application had been for a licence to sell alcohol from 0800 to 2400 daily with the same opening hours. However, following detailed discussions with residents just prior to the hearing, the application was verbally amended at the meeting for the sale of alcohol from 10:00 to 22:00 Monday to Sunday to take on board local residents concerns. Opening hours were also verbally amended in the hearing from 9.30 to 23:00 to enable some preparation time prior to opening.

A number of local resident representations had been received in response to the application. Those in attendance confirmed they had entered into discussions with the Applicant and explained that their understanding from those discussions was the amended Application was for the sale of alcohol license and opening hours of 10:00 to 22:00; they had not however agreed to the premises staying open until 23:00 hours.

The residents in attendance also requested the following be considered for inclusion as licence conditions: -

1. The premises had a garden area in the premises, and they requested a condition that the premises would not serve customers after 7pm in this area, on any day.
2. Management of traffic and bicycles; there were parking issues in the area and it was difficult for people who lived there and also dangerous for children. The people who lived and parked there were not very good at manoeuvring. The residents attending went onto state they had been assured that people working in shop would not be parking there and the premises was not intending to draw from a wider market.
3. Management of waste and rodent control.
4. Regular contact between the premises and residents.
5. Should a Temporary licence be applied for in the future eg for a birthday party – that the applicant should consult with residents before going ahead with that Application.

In reaching its decision the 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 Panel gave close consideration to the representations of the residents and the existing problems in the area.

The Panel took into consideration that the Applicant operated two other premises in similar areas and there was no evidence before them that there had been any issues with either of them. The Panel also noted that there were no objections from any of the relevant authorities.

The Panel took the view that the discussions that had taken place with the residents in attendance, during the waiting period for the hearing and the subsequent amendment to their Application by way of reduced hours, was evidence of the Applicants willingness to engage with the residents. The Panel also agreed that the residents appeared satisfied that the premises intended to operate as a delicatessen and restaurant

This taken together with the Applicant's experience and lack of any evidence of complaints or issues was, the Panel believed, a positive indication as to how they operated and demonstrated their consideration for the residents.

In relation to issues concerning parking, the Panel had been made aware of a pre-existing problem in the area and did not feel the Applicant had any control over the parking in the area or how other people parked their vehicles.

The issues in relation to waste/rodents and food hygiene already had statutory provisions which had to be complied with.

In considering the considered the request to limit the use of the external enclosure area to 7pm, the Panel but did not believe this was appropriate; they did however seek to address the issue of potential noise by limiting the alcohol consumption to patrons being seated at tables and amending/reducing the licencing hours for the sale of alcohol and opening hours.

## **Decisions**

1. To grant the licence as follows with an additional condition:-

Sale of alcohol (on and off premises): 10:00 – 22:00 hours Mon – Sun

Opening Hours: 09:30 – 23:00 Hours, Mon - Sun

2. Additional condition: - Alcohol consumed in the outside enclosure shall only be consumed by patrons seated at tables.

### **LACHP/23/46. Application for a Premises Licence Variation - Seven Sins, Unit G1, The Hive, 47-51 Lever Street, Manchester, M1 1FN**

The matter was withdrawn from the agenda as notice was given that agreement had been reached with the Licensing Out Of Hours Team as the only entity who had made representations against the application.

**LACHP/23/47. Application for a Premises Licence Variation - Love Factory, 200-204 Dantzic Street, Manchester, M4 4DD**

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

There were effectively two Applications to vary the current licence conditions

**Application 1: Premises Licence No. 260078**

1. To extend the hours for the sale of alcohol, regulated entertainment until 0100 hours daily
2. To extend the opening hours until 0130 hours daily

**Application 2: Premises Licence No. 272412**

1. To extend the hours for the sale of alcohol, regulated entertainment until 0100 hours daily
2. To extend the opening hours until 0130 hours daily
3. to remove Condition 9 at Annex 2 which reads as follows:

“Other than the event ‘The Summer of Love Festival’ there shall be no amplified music in the marquees or in any of the external licensed areas after 20:00 hours”.

And to replace with the following:

*Addition to the end of Condition 7 of Annex 2* – A record shall be kept of all monitoring which takes place outside the boundary of the premises, including the date, time and location of monitoring; the name of the monitor, and any action taken. Records shall be kept for no less than six months and shall be made available upon request by a Police Officer or an Authorised Officer of Manchester City Council.

In line with the established procedure, the Applicant’s representative outlined the venue as a ‘pop-up’ type site; a two warehouse space on industrial patches of land turned into an event space. In due course this area of land was to be developed into residential properties. The landlord was a large stakeholder with the Local Authority and in the meantime, the Applicants had taken on the site in 2021 with a view to presenting different events for music, culture and corporate events pending that development. They had undertaken the lease for 2 years on a three-month rolling determination which would end in September 2024.

Two separate licences with a combination of conditions on both were submitted. The reason for the submission of two separate licences was because one part had been ready to come on stream before the other one. The Applicants had previously presented the ‘Summer of Love’ (SOL) Festival in 2021 which ran over two days, and it was this that had given rise to the complaints and representations.

The first licence to be granted chronologically was to *Animal Crossing Music Limited* and was granted in 2021 without conditions. The second, granted to *Summer of Love Limited* was granted in May 2022. The Applicant was now seeking a consolidation of the entire space.

The Applicant's Representative outlined that the premises was often used for indoor corporate staff parties and promotions and the current closing time of 23:00 was not sufficient for this purpose as longer hours were often requested to facilitate the use of the premises for product launches. Emphasis was given to this being only for indoor events.

The application concerning the external variation (272412) was for no later than 2300 hours and therefore commensurate with the de-regulated hours of 0800-2300. There were no plans for a further festival event again however the Applicants were looking to operate 8 – 10 events per year. There was only one year left on the lease and since opening the premises there had been no issues or complaints received regarding the operation.

It was asserted that there would be no conflict as, the residential blocks were developed, the warehouse(s) would come down and therefore anything the Panel considered granting would be for one year only and would need to be re-applied for in planning terms. In addition, the representations from Licensing and Out of Hours (LOOH) related to future residential properties.

It was also asserted that the 2021 complaints had not been ignored, an acoustic drape had been built in, it was proposed to keep a record of all acoustic monitoring (to be kept for six-months) with a qualified engineer on site prior to and during events to assist with the monitoring of noise levels and any subsequent action required. Staff were also to direct patrons from the premises. In addition, there had been no representations from the police and the complaints were asserted to be relatively small (23/1000).

When questioned, it was confirmed there had been approximately twenty (interior) events since the SOL 2021 event and there would always be more than 500 people at the events as this would not otherwise be commercially viable; notwithstanding this, there had been no complaints as a result of the 20 events.

Within the documentation there was what appeared to be a partial acoustic report titled: Progress Centre Noise Report 15/04/2023; the Applicant's Representative confirmed via the Applicant (also present) that this did not relate to the premises in the Application.

The Applicant's Representative submitted that the LOOH representations were in respect of future premises that had yet to be built and explained the residents' complaints (which were almost identical) had been factored into Applications made for planning permission which had been granted in September 2022 with the respective Committee/panel having heard from Environmental Health, the Police, Acoustic reports, Contaminated Land reports etc and that although planning and licensing were different regimes, noise breakout was also a consideration in Planning.



Representations were received from Licensing Out Of Hours (LOOH) and 3 local residents. The Panel considered the oral and written representations which raised the same issue of noise nuisance, public safety and crime and disorder.

A resident outlined that he was seeking to prevent a repetition of what had happened at SOL festival – he accepted the year was 2021 not 2022 (a clerical error on his paperwork), and that explained in the four blocks where he lived housed some 260 people who were over 55 and a lot considerably older; they had, had an entire weekend when they had been tormented. The event finished at 2330 and then started again on Saturday and Sunday afternoon. He stated that he resided in an 11<sup>th</sup> floor flat directly facing the venue and the level of noise was so high that his sliding glass windows on his balcony were rattling to the extent that he had to put the TV in his bedroom for weekend so that he could watch and hear it. He had made a complaint at the time on the Saturday and an officer attended from enforcement; the level went down for about an hour and then it went back up. He completely opposed extending the hours especially to the outdoor activity.

He also submitted that none of the residents were aware of the applications and the written representations did confirm this. However, the Applicant's Representative confirmed that the statutory requirements had been adhered to.

With regard to the representations submitted by LOOH written representations confirmed they had received in excess of ten noise complaints one of which was two miles away from the venue and that granting the application would also potentially impact on the new residential properties. The LOOH Representative confirmed that their concerns focused on the application for the external licence and that based on the complaints, the removal of Condition 9 of Annex 2 allowing amplified music until 0100 hours every day would significantly undermine the Public Nuisance Licensing Objective.

In reaching its decision the 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 Panel had sight of the residents' 'petition' referred to but attached no weight to this. They also attached no weight to the acoustic report enclosed with the Applicant's documentation as it was not associated with the subject premises, it appeared to be a partial report with no author and no signature.

They noted that the Applicants Representative had clearly identified that the objections related to the external operation as opposed to the internal operation of the premises and had confirmed the external licensing hours applied for were no later than 2300 hours.

The Committee in considering the Applications had regard to the paragraphs of the Statement of Licensing Policy and Manchester Standards identified below.

In respect of Premises Licence Number 272412 - the current condition allowed for only one event which had taken place in 2021 and had generated 10 complaints, one

a significant distance away which had been attributed to the venue. To remove condition 9 at Annex 2 would obviously permit further events and the Committee noted that such external events would never house less than 500 persons as confirmed by the Applicant's Representative. Given the required volume of customers, the Panel was disappointed at the lack of any policy or proposals for the management of the external area for more than 500 people in close proximity to a residential area.

The Panel noted the Applicant's Representative submissions in respect of the planning permission having been granted, however, they noted that notwithstanding the overlap, planning was a separate regime and therefore no weight was attached to this submission. The Panel did however have regard to the fact that reference was made to an acoustic report being presented at that Application but it had not been included with the licensing Applications – whereas a partial and irrelevant one had.

Following the event in 2021 and subsequent to the representations made objecting to the variation applications, it also was apparent that the Applicant(s) had made no effort to engage with the local residents to address any of the issues arising or to provide them with any contact details. Whilst it is accepted this is not a statutory requirement Manchester City Council's Statement of Licensing policy states:

*6.4 Licensees are encouraged to consult with local residents, businesses and local councillors prior to submitting an application for a new licence or variation of an existing licence to ensure the promotion of the licensing objectives and ensure that any issues that may arise in respect of the proposed operation of the premises can be addressed at the earliest possible stage.*

The Panel did not consider the submissions that the premises would only be operative for another year of any relevance, the policy was clear in respect of operating as good neighbours.

The Panel considered the complaints from the sole permitted external event in 2021, the lack of detail and thought in respect of external event management and the lack of any engagement with the residents. They resolved that this was indicative as to how the Applicants operated.

The Panel was therefore of the opinion that to remove condition 9 of Annex 2 and extend the hours as requested would not only remove the restriction in respect of the number of events, but also the time limitation on the permitted amplified music as well as extending the permitted times for the sale and consumption of alcohol. They were of the opinion that this would undermine the promotion of the Licensing Objective of the Prevention of Public Nuisance – the Committee therefore refused this Application.

In respect of Premises Licence No. 260078, the Panel noted that although the residents and LOOH were objecting to this application, there had not been any specific complaints in respect of the internal events held and the main thrust of the objections was in respect of the external area. Therefore, they granted this Application.

## **Decisions**

1. To grant the application in respect of Premises Licence No. 260078
2. To refuse the application in respect of Premises Licence No. 272412

### **LACHP/23/48. Temporary Event Notice - NIAMOS Arts and Cultural Centre, Nia Centre, Chichester Road, Manchester, M15 5EU**

The matter was withdrawn at the request of the Applicant who had indicated that the event would no longer be going ahead.