

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 21 August 2023

Present: Councillor Flanagan – in the Chair

Councillors: Andrews and Reid

LACHP/23/79. Urgent Business - Temporary Event Notice - Car park, 40-48, Ashton Old Road, Manchester, M12 6LP

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant legislation. The panel were informed that the applicant was unable to attend the hearing due to being abroad. As there was no available date for the application to be deferred to before the event was due to take place, the panel considered the Temporary Event Notice in the absence of the applicant.

Greater Manchester Police (GMP) addressed the Hearing Panel, noting the event was for a food truck to sell alcohol from 7.00pm to 3.00am. GMP did not believe there was sufficient evidence in the application to show how the Licensing Objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance would be upheld. GMP noted the application was to serve alcohol to up to 50 people at a time. GMP had concerns regarding the location of the event, noting that the application was to serve alcohol, but that people would need to drive to the location, believing that would increase the possibility of drink driving.

The panel's legal representative sought clarity on where the truck would be situated. GMP stated they had not seen a plan of this, simply seeing the image of the car park submitted in the report.

GMP had nothing to add when invited to sum up.

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 panel had to consider whether they were satisfied that the event would uphold the Licensing Objectives, and if they were not then it is policy to issue a counter notice. The panel were satisfied with GMP's evidence that stated the Licensing Objectives would not be upheld if the event went ahead. The panel felt the applicant had provided a lack of detail with insufficient evidence of their knowledge of, or how to uphold, the Licensing Objectives.

Decision

To issue a counter-notice to the application.

LACHP/23/80. Urgent Business - Temporary Event Notice - Queens Hotel, Sedgeford Road, Manchester, M40 8Q

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

Greater Manchester Police (GMP) addressed the Hearing Panel, noting that the notice was for three consecutive dates, Friday 25 to Sunday 27 August, 12.00 to 00.00. GMP reminded the panel that the Premises Licence for the Queens Hotel had been revoked on 6 April 2023, however that decision had been appealed by the applicant. GMP asked that the Temporary Event Notice was subject to the same scrutiny as the events that led to the revocation of the Premises Licence. GMP requested that, in the interests of the prevention of crime and disorder and public safety, the panel issue a counter notice.

The Chair invited the applicant and their representative to ask GMP questions of their statement. Their representative questioned why GMP had asked for refusal when the premises had recently run 11 charity events without issue. GMP noted that they were unlicensed events that bared no relevance to this Temporary Event Notice. GMP still believed there was a possibility of crime and disorder at the venue, following the events that led to the revocation of the Premises Licence.

The applicant's representative re-asked why GMP felt crime and disorder was possible. GMP reiterated that the events leading to revocation had left them with no confidence in their ability to prevent crime and disorder.

The applicant's representative noted this was a different event to what had gone before so asked why GMP thought crime and disorder was still possible. GMP noted that the applicant's representative was an active suspect, on bail and that both the applicant and their representative had received threats to life. The applicant's representative stated they were not on bail. GMP corrected their statement, retracting the reference to the representative being on bail.

The applicant's representative asked for GMP to present the information showing that theirs and the applicants' lives would be in danger. GMP noted that they had both received threats to life.

The Hearing Panel's legal representative noted that the questions being asked by the applicant's representative had become repetitive, feeling that GMP had provided answers to the questions. The Chair invited the applicant's representative to continue with any different questions they may have had. They had no further questions.

Licensing Out of Hours (LOOH), in their capacity as Environmental Health, addressed the Hearing Panel, noting their belief that the Temporary Event Notice was a way for the applicant to circumvent the Licensing system following their revocation. LOOH did not have confidence that the applicant could uphold the Licensing Objectives.

The applicant's representative questioned why LOOH were concerned about the events when they were not taking place out of hours. LOOH noted their concern related to the events that led to the revocation of the Premises Licence and their lack of confidence in the Licensing Objectives being upheld.

The Hearing Panel's legal representative informed the applicant's representative the LOOH had made their representation in their capacity as Environmental Health.

The applicant's representative addressed the Hearing Panel, noting they had owned the premises for over 40 years, feeling they had operated with an unblemished record until the revocation. They felt the Licence had been revoked due to GMP stating that their lives and their customers lives were in danger. The applicant's representative believed that to be false information and that the information did not exist. The applicant's representative informed the panel that the application was for a charity event, and they had no alternative motive. They believed that the same people who had attended the previous 11 charity events would attend for this event, and there had been no issues at the other events. The applicant's representative noted that they had alcohol left over since the revocation and had been supplying that at charity events in exchange for donations from customers. The applicant's representative stated that would continue whether the Temporary Event Notice was granted or not. They noted that neither themselves nor the applicant had been found guilty of anything and they were not criminals as they felt had been suggested by GMP. The applicant's representative did not understand how they could be deemed as running the pub for 40 years without issue then become unfit to hold a licence overnight.

The Chair invited questions from GMP and LOOH regarding the applicant's representative's statement, but none were forthcoming.

The Chair then invited questions from the Hearing Panel. A member of the Panel referenced that they had just searched the internet to check the applicant's representative's claim of having an unblemished record. The Chair and the Hearing Panel's legal representative stopped this question, informing the panel and the applicant that only information before the panel could be considered and that the information seen online would not form part of any decision made by the panel.

A member of the panel then requested to hear from the applicant rather than their representative. The Chair again interjected to remind the panel that the applicant could be represented by whoever they choose and they themselves did not have to address the panel, as per the Licensing Act 2003.

A member of the panel noted that the applicant's representative had stated that GMP had referred to them as criminals and asked the representative where that had been referenced in the report. The applicant's representative continued to state that GMP had referenced them being a criminal and that they had said they were unfit to run a Licensed Premises. The Hearing Panel's legal representative clarified that GMP had referred to the applicant's representative as still being an active suspect in an ongoing investigation.

When invited to sum up, GMP had nothing to add.

When invited to sum up, LOOH had nothing to add.

The applicant's representative summed up by stating that they had never been charged or prosecuted. They felt there was a 'sour taste' now that a panel member had searched the internet for stories regarding themselves and the applicant, feeling that the panel member would have had a tarnished view. The applicant's representative felt their business had been destroyed. They reiterated that the event would go ahead regardless of the outcome.

The Chair reminded the applicant's representative that the Hearing Panel could only consider the evidence in front of them, and that the information found on the internet would be discounted from any decision made.

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. Due to the concern of the applicant regarding bias of a panel member following an internet search, that panel member took no part in the decision-making process, abstaining from the decision made. The remaining panel members considered that the Premises Licence had been revoked in April 2023, noting they did not want to undermine a decision made by a previous panel but still considering this notice on its own merits. The panel had to consider whether they were satisfied that the event would uphold the Licensing Objectives, and if they were not then it is policy to issue a counter notice. The panel noted that the applicant's representative was still an active suspect in the GMP investigation into the events that led to revocation. The panel raised concerns regarding the 11 previous charity events ran by the applicant, as their representative had admitted that alcohol was supplied at them without a Licence or Temporary Event Notice in place. This added to the panel's concerns that the applicant's representative had stated the events would go ahead with or without the granting of this Temporary Event Notice. In considering this, the panel accepted the representations of GMP and LOOH that the Licensing Objectives would not be upheld. The panel had particular concerns relating to the Prevention of Crime and Disorder, and the Prevention of Public Nuisance.

Decision

The serve a counter-notice to the application.

LACHP/23/81. Urgent Business - Temporary Event Notice - King Street Grooming, 44 King Street, Manchester, M2 6BA

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant legislation. The Hearing Panel were informed that no contact could be made with the applicant regarding their attendance. As the event was due to take place the same week as the hearing, the panel had no option than to hear the application in the applicant's absence.

Licensing Out of Hours (LOOH) addressed the Hearing Panel, noting the application was to sell alcohol for consumption inside and outside the premises. Due to the Public Spaces Protection Order in place, drinking outside the premises was not possible. They noted the event was not ticketed but the premises would take donations for charity. LOOH had put forward a set of conditions, that if agreed by the panel, would satisfy them that the event would uphold the Licensing Objectives.

The panel queried how music being played outside of the premises would be managed. LOOH stated that would be policed on the day.

LOOH had nothing to add when invited to sum up.

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.

Decision

Not to serve a Counter Notice but subject to the following conditions being imposed:-

1. The event takes place indoors only, (As there was a Public Space protection Order in place).
2. The venue did not exceed its capacity.
3. Polycarbonate glasses only were to be used.
4. Speakers shall not be located/operated in the entrance lobby or outside the premises.

LACHP/23/82. Application for a New Premises Licence - Fay's Café, 815 Rochdale Road, Manchester, M9 5XD

The Hearing Panel were informed that the applicant's agent had requested a deferral due to being unavailable.

Decision

To defer the hearing until 11 September 2023.

LACHP/23/83. Application for a New Premises Licence - Apna Thikana, Basement, M1 Building, 50 Princess Street, Manchester, M1 6HR

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

The applicant's agent addressed the Hearing Panel, stating the applicant had over 11 years of restaurant experience. In forming their application, the applicant took note of Manchester's Licensing Policy and the Licensing Act 2003, the Regulations made

there under and the Guidance issued by the Secretary of State under Section 182 of that Act to ensure their application upheld the Licensing Objectives. The restaurant would be situated in a basement that previously had a similar premises in until that ceased trading 10 years ago. The premises was in a poor state of repair and the applicant had taken time to get it up and running again. The applicant had fit silencers on the extractor to alleviate resident concerns regarding noise emanation.

The applicant's agent noted that health and safety, and fire risk assessments had been completed, alongside a noise assessment. The applicant had agreed additional conditions with LOOH to strengthen their application. The applicant's agent stated that the venue was not a nightclub and that any entertainment at the venue would be cultural. They noted that the absence of a representation from GMP highlighted that the Licensing Objectives would be upheld as they are the experts. It was stated that a condition had been put forward that customers can only be served alcohol with a meal to stop the premises becoming a bar.

The applicant's agent moved on to address objector concerns relating to crime, noise and takeaways. They re-stated the absence of a representation from GMP showed that crime was not seen as a problem. Door supervisors were also to be employed from 22.00 on any night that the restaurant was open post-midnight. It was noted that would not be every night, but the applicant sought flexibility in their Licence to allow for it when necessary. In terms of noise, a noise impact assessment had been completed and there was no Cumulative Impact Zone in place. Door supervisors would also assist in managing noise levels. All takeaways were suggested to be completed via the back door. The applicant wanted to work with responsible authority's and residents to ensure the premises did not have a negative impact.

The applicant's agent noted that the premises had ran for three weeks utilising temporary licenses and there had been no issues reported to the premises, LOOH or GMP.

Under questioning from the resident objector, the applicant's agent noted that as per legislation, they were not required to consult residents regarding the application. They met the requirements of legislation but placing notices on the front and back door, and in the newspaper. The applicant's agent noted they had proposed a condition to limit the smoking area capacity to reduce noise for residents. They stated that as the smoking area would be on a public highway, it would be difficult to manage. They felt that realistically it would not be an issue, however stated that a phone number would be available for residents to contact the premises with any issues. It was noted that the noise impact assessment was completed to mirror the everyday use of a restaurant and the report found no escape of noise. The applicant's agent stated that the premises would operate as a restaurant and would not be anything else.

Under questioning from the panel, the applicant's agent stated that the smoking area would be on ground level to the right of the entrance, as suggested by LOOH. Entertainment would only take place indoors, any reference to outdoors was in relation to the delivery of food which would be collected from the back door. The applicant had requested opening times until 4am only on Sundays before bank holidays and New Years Eve, however the applicant indicated they were willing for

this to be removed from the application. The applicant's agent was unsure why the opening hours in the noise report differed from those applied for.

The resident objector addressed the Hearing Panel, noting that the area had changed in recent years, becoming more residential. They raised concerns that there had been no consultation with residents regarding the application. They noted that most restaurants in the area close at midnight, and felt it was difficult to see how this application was only for a restaurant with the opening hours applied for. The resident objector felt that the premises would increase public nuisance, raising particular concerns regarding the smoking area. They felt that the noise report did not adequately address their concerns.

Under questioning from the applicant's agent, the objector stated they had made reports during the period the restaurant had operated with temporary licences, particularly regarding the extractor fans. The objector accepted they had not seen that silencers had been fitted on the extractor. The objector accepted that the applicant had offered conditions relating to the smoking area that may satisfy their concerns.

Under questioning from the panel, the objector accepted that it was a suitable location for a restaurant, if done appropriately. The objector accepted that some of their concerns were being addressed by the applicant and the conditions being proposed.

The resident objector summed up by stating that they accepted the application was becoming more acceptable with the additional conditions being proposed.

The applicant's agent summed up by stating that the operating schedule would uphold the Licensing Objectives. GMP and LOOH are the experts, with GMP making no representation and LOOH agreeing conditions with the applicant. The noise emanation from the extractor had been dealt with and there had been no issues whilst operating on a temporary license. They noted the objector had not supplied any evidence.

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 panel took regard of the information provided to them from the resident objector. The panel noted that the applicant was an experienced restaurant operator. The panel accepted that the applicant had a noise impact assessment completed and had fitted silencers to the extractor, however they had concerns regarding internal noise and vibrations. The panel had concerns regarding the use of the back door, which was a fire door, to complete takeaway collections. The panel was satisfied that the applicant was to employ door supervisors from 22.00 on nights that they operated post-midnight. The panel, whilst noting the applicant did what they were legally required to do, had concerns that residents had not been consulted. The panel noted that conditions had been agreed with LOOH and there had been no representation from GMP.

Decision

To grant the application subject to the additional conditions agreed with LOOH, and the following conditions put forward by the panel:

1. All collections for take-away food be through the main entrance of the venue.
2. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance.
3. A direct telephone number for the manager of the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents in the building.
4. A smoking policy being agreed by LOOH.
5. The kitchen to close at 00.30, including for deliveries.
6. An additional two operating hours allowed for New Years Eve.

LACHP/23/84. Application for a Premises Licence Variation - Exhibition, St Georges House, 56 Peter Street, Manchester, M2 3NQ

The Hearing Panel were informed that all representations had been agreed and withdrawn, and therefore no decision was necessary.