

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 18 September 2023

Present: Councillor Hughes – in the Chair

Councillors: Grimshaw and Hilal

LACHP/23/87. Application for a New Premises Licence - (TBC), 241 Barlow Moor Road, Manchester, M21 7QL

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 addressed the Hearing Panel and stated that this business would not affect the neighbouring residents and businesses and would be safe for all customers. The proposed restaurant would serve Turkish food and coffee to a maximum of 80 customers. This area would be a good location to run a successful business and the applicant and staff would address and control any concerns around traffic and nuisance. With regards to traffic concerns, the applicant stated that other types of businesses nearby attract more traffic and don't cause any traffic issues. One more premises would not add serious traffic issues. All residential properties have a driveway which helps to keep cars clear of the pavement and there were double yellow lines around the area to address parking problems. The premises was not likely to be full to capacity at all times and customers wanting to drink alcohol would not drive to this location. With regards to loading/unloading, there would be fresh produce delivered by small vans. With regard to nuisance/noise/recorded music, the applicant stated that the premises had a plan in place. New provisional operating hours would be 08:00 to 21:30 with last orders at 20:45. Kitchen cleaning would take place at the end of every shift. Music would be kept to the same levels as other nearby restaurants at background level. The extractor fan had a noise breaker attached. The premises would use security personnel when necessary. With regards to children, the bar manager was very experienced, would be trained regularly in operating with ID checks and refusals recorded for any MCC/GMP staff to see. CCTV would be in use around the clock and signage for Challenge 25 displayed around the premises and at the bars. Regarding nuisance from smells, a carbon filter would also be used and the premises would provide an outdoor odour assessment.

The Legal advisor to the Hearing Panel addressed some points in the applicant's statement:

- The applicant could bring the closing time forward to an earlier time but not do so for the opening time and confirmed hours applied for as now being 11:00 to 21:30 – the applicant agreed
- Regarding the live music act and deregulation, if the alcohol licence was granted today, the applicant would not have to apply for this as it would be automatically granted up to 23:00

- Regarding traffic/planning issues, this was a separate regime to Licensing procedure and these issues could not be considered by the Hearing Panel today

In responding to questions from the LOOH representative, the applicant stated that:

- No shisha would be available at the premises
- There was an area and policy for smokers
- This was an outside open area with a wind breaker to assist with noise breakout
- He was aware that smoking areas had to be 50% open air minimum
- The side windows and roof can be drawn back by remote control to increase the open air aspect
- They had other restaurants, businesses and experienced managers/staff
- He was to be the Managing Director with an office on the 3rd floor
- There was no business partner in this enterprise
- The DPS would be on site full-time with a view to hiring others in the future to be sure there was someone on site to handle any issues at all times
- Yes, the DPS currently lives in Sheffield and would not be able to be on site 7 days a week. He would cover 3 to 4 days a week once the premises had hired another member of management staff
- The current DPS did not manage any other premises
- The DPS would cover licensing training on underage alcohol refusals, reporting thereof, safety, staff control and dealing with inebriated customers
- Staff would not sell more alcohol to anyone already drunk and SIA registered security would be provided if groups of 20 or more made a group booking
- The outside capacity was 12 maximum and would close at 21:30
- Alcohol would only be served with food, no person ordering alcohol only would be served with a drink
- Challenge 25 meant the premises had to provide signage throughout and was a policy not to serve anyone under the age of 18

In responding to questions from Trading Standards, the applicant stated that:

- Training would be delivered weekly with a full course every 6 months
- They were happy to add Challenge 25 refusals to a log as part of additional conditions

In responding to questions from Ward Councillor Rawson, the applicant stated that:

- They would use security for bookings of 20 or more in a group
- They were in the process of planning this security contract already and some staff would also be trained in security

In responding to questions from the Hearing Panel, the applicant stated that:

- No drinks would be allowed in the smoking area
- The smoking area was not enclosed as the windows and roof are remote controlled and retractable
- The side "lean-to" area was for seating and a small smoking area at the lower part of the plan
- This area was for 8 to 10 smokers and measured 2.5m by 14m
- Staff would patrol this area
- Staff would be trained in the restaurant's policy to manage smokers

- The DPS and other experienced staff would provide the training
- The DPS is trained in conflict management
- There would be an outside body delivering training also
- They could provide details of a dispersal policy
- All other policies will be put in place but the applicant had not been asked to provide these
- In terms of notifying neighbouring properties, the application had been displayed for 2 months outside the property (the Hearing Panel noted that this was part of Licensing proceedings and not an attempt by the applicant to contact/allow contact between them and any concerned local residents/businesses)
- They had been busy with the preparations but were always available to speak to
- 95 of the 100 neighbours appeared to be happy with the application
- The applicant had received a call from a Local Ward Councillor who said they would speak to the objectors so they did not think they needed to take any further action
- The extractor has noise and odour eradicator functions and was not visible

LOOH addressed the Hearing Panel and stated that this was an area of residents and some small businesses and, as such, was noise sensitive. The applicant had scaled back the capacity from 150 to 80 patrons and hours from 23:00 to 21:30. This was a difficult premises to assess without any trading history and the application was very vague. The site had a skip in place that did not have a permit and this had caused additional concerns with local residents as to the proper running of the premises. The operating schedule stated that the DPS would always be on site, additionally, the applicant stated that SIA door staff would be employed for booking of 20 or more patrons. These were a costly exercises and could be difficult to abide by. Having alcohol as ancillary to food was also potentially quite restricting to the running of the business. LOOH expressed concerns over the 80 miles round trip for a DPS living in Sheffield to undertake. This led to doubts over the day to day control of the premises. Also, there was talk of the DPS being part-time in the future. LOOH did welcome the reductions in capacity and hours but concerns over the DPS and lack of other conditions remained.

The applicant did not have a question but stated that the skip was hired from a company, that SIA staff were required to make the business, customers and neighbours feel safe and stated that the current DPS may be able to stay over in Manchester while full-time until they employed another manager.

The LOOH representative responded to questions from the Hearing Panel, stating that they would work with the applicant to be compliant but this would take time as there were lots of teething problems, that there was no mention of shisha and that their concern on the smoking area was around Health Act compliance.

The Legal Advisor to the Hearing Panel confirmed that there was no condition that could be applied to stop shisha use in the smoking area.

Trading Standards addressed the Hearing Panel and stated that there were four additional conditions requested that the applicant appeared to agree with today;

Challenge 25 ID requests, Challenge 25 signage, Challenge 25 refusal log and staff training documented at a minimum of 6 month intervals. The initial operating schedule supplied by the applicant was very generic. The type of training to be provided was not clear. Trading Standards asked if the applicant would officially agree to the four conditions above.

The Legal Advisor to the Hearing Panel asked if Trading Standards were satisfied with the application if the four conditions were confirmed as added by the applicant and the Trading Standards representative agreed.

Resident 1 addressed the Hearing Panel and stated that there was no consultation with their business located next door. There would be increased footfall in the area, the smoking area was too small, there would be an increase in noise outside the premises and this was a quiet residential area. The main concerns were summarised as noise, safety and traffic due to children playing outside nearby.

The applicant asked Resident 1 whether children would be playing outside at 21:30 and stated that the Barlow Moor Road was generally a busy road. Resident 1 stated that the side of the premises ran along a residential street.

Resident 2 addressed the Hearing Panel and stated that the smoking area was not large enough.

Ward Councillor Rawson, representing all 3 Ward Councillors, expressed that the application required lots of teasing out of finer details that could have been provided in the application and with earlier communication strategies. Regarding training, he would have liked more information to be sure that the premises runs to regulations and in a safe manner. Although the capacity had been reduced to 80, residents would still have concerns for this residential, family area. The premises would still draw a large number of customers arriving at similar times and this was not a sustainable location for public transport. Regarding the comment about double yellow lines stopping parking issues, one of the photographs provided showed a vehicle parked on the lines. Councillor Rawson stated that he was attending on behalf of Ward Councillors in support of officers and neighbouring properties and businesses.

The applicant asked Councillor Rawson whether other nearby restaurants had caused any problems. Councillor Rawson stated that the other properties had service roads at the front and were further away from family houses. The applicant repeated his questions, as he felt it was not directly answered. Councillor Rawson stated that the applicant's property was in a different location and more likely to create noise and disturbance.

Councillor Rawson responded to a question from the Hearing Panel, stating that the reduced hours were helpful but there was still scope for problems and that he would have liked to have seen a dispersal policy.

In summing up their presentation, LOOH stated that there were lots of welcome changes from the applicant today but, if granted, there would still be teething problems. LOOH suggested that the Hearing Panel refuse the application, allowing

the applicant to re-submit with more robust conditions and to give them the opportunity to apply for earlier opening hours.

The applicant summed up their presentation by stating that they had provided lots of information, that the business would run safely, that they were happy to take on board any further advice and requested the hearing Panel grant their licence.

Decision

To grant the application with amended hours and additional conditions agreed with Trading Standards and further additional conditions from the Hearing Panel:

Hours 11.00am – 9.30pm – for licensable activities applied for 11.00am-9.30pm-
Open to the public

1. The CCTV system operates at all times while the premises are open for licensable activities

- All equipment must have a constant and accurate time and date generation
- The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected
- There must be at least one member of trained staff at the premises during operating hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation)

2. Customers permitted to temporarily leave and then re-enter the premises to smoke must be restricted to the designated smoking area. No more than 8 of customers will be permitted to remain in the designated smoking area at any one time.

3. No drinks to be taken outside in the designated smoking area.

4. Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect the needs of local residents and use the area quietly.

5. Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.

6. The 'Challenge 25' Scheme shall be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an HM Forces warrant card, or a card bearing the PASS hologram.

7. All staff engaged in the sale of alcohol shall be trained with regards to the 'Challenge 25' policy and sales by proxy. This training shall be documented, and training shall be refreshed at no greater than 6 monthly intervals. A log is to be kept of the persons attending the training.

8. The Premises Licence Holder shall ensure that signage demonstrating the 'Challenge 25' policy, as well as selling alcohol to children by proxy, are placed at the entrance to the premises as well as being displayed in all areas serving alcohol.

9. A log shall be kept and shall record all instances when alcohol has been refused for the reasons that the person(s) is, or appear to be, under 18 years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log shall be available on request by the police or an authorised officer of Manchester City Council. The log shall be checked on a regular basis by the

Designated Premises Supervisor Conditions consistent with the operating schedule-amended

10. The premises shall be staffed with trained staff on all aspects of restaurant management and services.
11. All mandatory signs shall be displayed and clearly visible.
12. In cases of emergencies, staff shall be fully aware of procedures to take and who to contact.
13. A manager shall always be on site.
14. Risk assessments shall be carried out, and everything shall be supervised and managed thoroughly.
15. Alcohol shall only be consumed on the premises strictly, served by trained staff only.
16. No alcohol shall be served to under 18's.
17. Alcohol shall be served only with purchased foods and at tables served by staff.
18. Children shall not be allowed on site without adults.
19. Children shall not be left unsupervised
20. The restaurant is restricted to 80 covers.
21. Between 11am and 9.30pm there must be a member of staff on the premises who holds a Personal Licence.
22. SIA registered security staff shall be employed at the premises when the premises has a booking of 20 or more persons on the premises.
23. Taxi numbers will be positioned in prominent positions around the premises.
24. The Name and Telephone number of the manager in charge must be prominently displayed at the premises

**LACHP/23/88. WITHDRAWN - Application for a New Premises Licence -
Tortilla, Unit 19a, The Arndale Centre, Market Street,
Manchester, M4 3AQ**

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