

## **Licensing and Appeals Sub Committee Hearing Panel**

### **Minutes of the meeting held on Tuesday, 28 February 2023**

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

**Councillors:** Evans and Lyons

#### **LACHP/23/20. Renewal of Sex Establishment Licence - Whiskey Down, 18-22 Lloyd Street, Manchester, M2 5WA**

The Hearing Panel considered a report from the Head of Planning, Building Control and Licensing.

The Licensing Unit Officer addressed the Hearing Panel, noting that this was a renewal application for which no objections had been received. They stated that the hearing panel could only refuse the application on the basis that any of the mandatory or discretionary grounds had been met. The Licensing Unit Officer stated that no mandatory grounds had been met but it was a matter for the panel to decide if any discretionary grounds had.

The applicant addressed the Hearing Panel, stating that this was their fourth annual renewal application, after having opened in July 2019. They noted the entrance to the premises was discreet, with a sign outside only lit at night. Whilst the venue operates as a Sexual Entertainment Venue, there is also a focus on Whisky, and other drinks in general. The venue attempts to be inclusive to all. The applicant was unaware of any objections, noting in particular the lack of objection from the Responsible Authorities.

The panel sought clarity on the experience of the applicant. The applicant noted they had been running similar premises for at least 7 years.

The Licensing Unit Officer summed up by stating that the Hearing Panel must have regard to the Council's policy for Sex Establishments, information submitted as part of the application, any observations submitted to it by the Chief Officer of Police and any objections received from anyone else within 28 days of the application. An application should only be refused where the Hearing Panel are satisfied it is necessary and proportionate, with any decision made on non-discriminatory grounds. The Hearing Panel could impose conditions, alongside those agreed as standard conditions for a Sex Establishment.

The applicant was invited to sum up by the Chair but had nothing to add.

In their deliberations, the panel noted the Licensing Unit Officer's statement that no mandatory grounds for refusal had been met. The panel accepted that no discretionary grounds for refusal had been met.

#### **Decision**

To grant the renewal as applied for.

### **LACHP/23/21. Exclusion of the Public**

A recommendation was made that the public be excluded during consideration of the following items of business.

#### **Decision**

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

### **LACHP/23/22. Application for a Street Trader Consent - Monsieur Tacos, Pavement in front of All Saints Park, Oxford Road, Manchester**

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing.

The Licensing Unit Officer addressed the Hearing Panel, noting that this was an application for a new Street Trader Consent on the pavement in front of All Saints Park, Oxford Road. The applicant requested trading hours of: Monday to Wednesday 11:30 – 21:00, Thursday 11:30 – 22:30, Friday 11:30 – 04:00, Saturday 11:30 – 00:30 and Sunday 17:00 – 21:00. The applicant had proposed to trade French Tacos, Crepes, Pancakes and others. The Licensing Unit had received 3 objections from Manchester Metropolitan University, Oxford Road Corridor and Licensing Out of Hours. An objection had been received from an adjacent trader, however that had been withdrawn. The Licensing Unit Officer provided a summary of the objections received.

The applicant's agent addressed the Hearing Panel, providing background to their intentions for the business. They stated they were a recent graduate from Manchester University and through their time there, they had noticed the potential for a Street Trading business in this location. The applicant intended that their business would have good values, believing that they could serve tasty food that is healthy. The applicant intended for their business to be sustainable, for example utilising edible and/or sustainable packaging. The food served would be mostly organic and locally sourced. The applicant would serve all food options; meat, vegan, vegetarian, and halal. The applicant also stated that on a Sunday, they intended to provide free food to homeless people in the area.

The applicant moved on to address the objections that had been received. In terms of location and access, the applicant noted that there was another trader in the same location who has operated safely. The applicant had spoken to traders in the area who had offered their assistance. They noted that their trailer would be able to be moved by hand as there would be no engine. The applicant stated their belief that the location was safe. They provided images to the Hearing Panel and objectors of the

location intended for their trailer. The applicant felt those images showed that their intended pitch would not cause an issue for pedestrians. The applicant had requested a pitch of 5 metres 50 centimetres but noted their flexibility on the size. The applicant addressed concerns regarding serving till 4am, noting the difficulties in getting consent and they would not risk that by serving the wrong people.

The applicant then addressed the objection that their Street Trading would be incompatible with Manchester Metropolitan University's Public Realm Masterplan. They were unsure what it was about their business that was incompatible, noting they were a former student, and it was a business that would have good values, creating jobs for students. They felt that the business would contribute to the vibrancy of the park and contribute to the relaxing atmosphere intended for the area. The applicant felt that their business would provide a good first impression for visitors to be able to see the success of a former student.

Concerns had been raised regarding public nuisance, but the applicant noted that other traders had been allowed consent in the area and that their trailer would take less space. In terms of litter, the applicant stated that there would be bins next to the trailer and they would take rubbish away with them. The applicant would use sustainable packaging, whilst partnering with Too Good to Go to reduce food waste. The applicant finally noted that their offer is different to that of any other trader in the area. They would be using locally sourced produce too.

LOOH asked the following questions:

- 1) How many people would it take to move the trailer by hand?
- 2) Where would you load and unload the trailer?
- 3) What training will be provided on conflict management?
- 4) Has a risk assessment been done for the late hours?
- 5) What measures will you take to deter illegal parking in the area?

The applicant provided the following answers:

- 1) The trailer would have wheels but would require at least three or four people to move it.
- 2) The trailer would be loaded and unloaded using the loading bay on Cavendish Street.
- 3) The applicant would always be in the trailer whilst operational but recognises that training would be required for those working late at night.
- 4) If trading became difficult, the applicant stated their willingness to hire SIA staff. The applicant was willing to put in any measures the panel saw fit to ensure their business ran safely.
- 5) The applicant would not serve anyone that parked illegally.

The panel then sought clarity from the applicant on if they would accept a security related condition, how they would manage a queue, the difference between theirs and other vendors in the area, waste disposal and how the trader would be compatible with the University's Public Realm Masterplan. The applicant was happy for a security related condition to be placed on the Consent should the panel think it necessary. The applicant would have someone assigned to managing the queue and the pavement around their trailer. The applicant felt their offer differed from others in the area by offering healthy food and types of food that cannot be found elsewhere,

such as French Tacos. The applicant planned to take waste away with them as they did not anticipate more than 1 or 2 bin bags a day. To be compatible with the Public Realm Masterplan, the applicant wanted to work closely with the University.

LOOH then addressed the Hearing Panel, noting this was a busy area and was one of the main routes into and out of the city centre. They felt this location was unsuitable and would cause a hazard to the public. LOOH had concerns about the loading and unloading of the trailer. The unit applied for was large and LOOH felt this would cause obstructions. LOOH had concerns regarding the late hours applied for, believing this would cause a public nuisance. LOOH stated that they felt the application would undermine the Licensing objectives of Public Safety and the Prevention of Public Nuisance.

A representative of Manchester Metropolitan University addressed the panel, noting their concerns that the application was not compatible with their Public Realm Masterplan. They stated that when the railings were removed from the park, this trailer would be an obstruction. A key part of the project was to create more open outdoor space and MMU felt this application would restrict this. MMU were working closely with the Oxford Road Corridor for those plans. MMU believed the trailer would cause safety concerns on the pavement, creating additional congestion. There were also concerns regarding litter and noise. MMU felt it was not necessary for there to be another food outlet in this area.

A representative of Oxford Road Corridor addressed the panel, agreeing that the application was not compatible with the Public Realm Masterplan. They felt this application would not assist in trying to improve the street scene. They had concerns regarding space, believing this would add to congestion in the area. They also believed there was adequate food provision in the area.

When invited to sum up, the representatives of MMU, Oxford Road Corridor and LOOH had nothing to add.

The Licensing Unit Officer summed up by stating the panel should consider the application in regards to the objections received and the Council's Street Trading Policy.

The applicant summed up by stating that they had worked on this concept for around a year due to their passion for cooking. They believed that there's was widely recognised as an idea for a good business. They stated that this was not just a food stall, but a project.

In their deliberations, the Panel firstly noted that the hours past 11pm applied for could not be considered as they would require a separate application under the Licensing Act 2003. This meant that the objections of LOOH relating to Public Nuisance and Public Safety were not relevant to their discussion. Whilst noting the objectors concerns that this was a busy area, the panel felt any issues could be alleviated by unloading and loading the trailer on Cavendish Street. The panel did raise concerns regarding the applicant taking waste home with them, and felt an additional condition was required for waste disposal. Whilst objectors raised concerns about future plans for the area, the panel did not think they should take any

precedent at this stage. They noted that the consent is provided yearly and that if the area was to change, this would be relevant for future renewals.

### **Decision**

To grant the application with the addition of the following conditions:

- The trader must have a commercial waste management plan to deal with all commercial waste produced by the business with a suitable waste contract in place.
- The trailer can only access the site via Cavendish Street. The trailer to be off loaded and loaded from an appropriate loading bay on Cavendish Street. Any vehicle which was attached to the trailer to be parked in an appropriate legal parking space.
- The trailer/Unit must be manoeuvred across Cavendish Street to the site by a minimum of 3 people.