

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Friday, 7 July 2023

Present: Councillor Grimshaw- in the Chair

Councillors: Connolly and Hewitson

**LACHP/23/55. Summary Review of a Premises Licence - Vision, 58
Whitworth Street West, Manchester, M1 5WW**

The Hearing Panel considered a report from the Head 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, the Hearing Panel heard from Greater Manchester Police (GMP), who informed the panel that the premises had been subject to a previous Summary Review in April 2023 that related to the use of a knife on the premises. A male victim was slashed across their face following a verbal dispute, with the victim requiring hospital treatment. A potential offender had been identified and arrested. At the Interim Steps hearing during that review, GMP had agreed a new condition with the premises relating to the use of a metal detecting wand to search customers on entry and re-entry. GMP had visited on two separate occasions and saw the condition was being met. For that reason, GMP agreed at the full Summary Review that the condition was appropriate and proportionate for the premises to uphold the Licensing Objectives. For the previous incident, the issue of a lack of Bodycam use by door staff was raised, but GMP had accepted the premises explanation that the incident was over too quickly for Bodycam's to be utilised. Following this incident, GMP had been contacted on 23 April 2023 due to fighting at the premises but no offenders had been found.

GMP then read their report verbatim from the agenda issued relating to this Summary Review, whilst raising that this recent incident came after a previous violent incident only 10 weeks prior. GMP requested that the public were excluded whilst they showed the panel CCTV relating to the night in question. The investigation was ongoing and GMP felt that having the CCTV shown in public may prejudice that. The panel deliberated in private and decided to exclude the public during the viewing of the CCTV and subsequent questions to protect the ongoing police investigation. The CCTV was then shown in private and questions were asked of GMP by both the premises agent and the panel.

LOOH then addressed the Hearing Panel, reading their report verbatim from the agenda issued. They noted that there were a number of Licence breaches on the night in question and that LOOH supported GMP's position. Under questioning by Vision's agent, LOOH explained that the smoking area was raised as an area of concern in meetings with the Premises since the first Summary Review. LOOH felt that the barriers were too low and would allow people to pass items in and out of the area. LOOH had requested for the barriers to be made higher but stated that they expected those returning from the smoking area would also be re-wanded on entry. It

was noted that the DPS had given assurances that the barriers in the smoking area would be raised, but LOOH noted that from the CCTV it was clear this had not happened. LOOH felt that CCTV in the rear room of the Premises was not clear enough as the fight could not be seen due to its positioning. LOOH felt that the CCTV was not of a good enough quality, even though the DPS had updated the system. LOOH felt that on the night SIA staff could have separated the groups who had been fighting by allowing some out of the back door or holding them back in the club. The applicant's agent had stated that it took 15 minutes for GMP to arrive so questioned the ability of SIA staff to hold them back. LOOH felt that in that instance, Nitenet should have been used and it was not. LOOH noted that the noise complaints received had no bearing on the Summary Review but that the Premises had worked alongside them to deal with any issues. LOOH agreed the Premises was previously well run but that something had clearly changed recently and felt that the Premises could not cope when something went wrong. LOOH felt that the proposed conditions could potentially work but agreed with GMP that they had no confidence in the Premises to uphold them given the breaches during this incident. LOOH felt that the door staff could have done more during the incident but would not say it was the fault of the DPS.

Under questioning from the panel, LOOH accepted there had been no issues in the previous 12 years but that something had clearly changed. They felt that was more of a question for the management team but could possibly be the use of promoted events attracting a different demographic. LOOH were unsure if the first incident had been a promoted event. Vision's general manager noted at this point that the venue primarily catered for students but the group involved during this incident were not students. Their agent stated that there could be better ways to manage events through conditions. LOOH agreed that customers in the smoking area should have been re-searched upon re-entering the Premises.

In the next stage of the procedure, Vision's agent then addressed the Hearing Panel. They made an application to exclude the public to re-show the CCTV that had previously been shown by GMP. The panel agreed to the application. The agent accepted that two females had entered the Premises without being searched and that the standard of searching was not up to scratch. The agent felt that those in the smoking area were not required to be researched when re-entering the Premises. There was 6 SIA trained staff working on the night, which was more than the Licence required. As part of the new conditions, the Premises had proposed a 'knife arch' at the entrance, along with an ID scanner. The agent noted that there was no evidence on the CCTV that a weapon had been taken into the club. The agent stated that the SIA staff were wearing Bodycams but accepted they had not been activated.

GMP noted that the time of the incident on the CCTV footage showed that GMP had arrived within 4 minutes, and not 15 as previously suggested by the Premises. This was accepted by the Premises. GMP and the panel sought clarity on what first aid was given to the victims. The DPS stated that both victims had been treated in the entrance by a member of door staff, who then called an ambulance which arrived after GMP. GMP noted that one victim appeared to leave the Premises one minute after re-entering for first aid and questioned how proficient the first aid could have been in that time. The DPS was unsure as they were on the phone to the police operator, they were taking their information from the statements provided by staff.

The DPS was unsure of the specific time the ambulance arrived, again as they were on the phone to the police operator.

As part of Vision's agents statement to the Hearing Panel, they asked the DPS a series of questions. During that, the DPS noted that they had ran the Premises for 12 years with no major issues leading to a Summary Review before. The DPS stated they had agreed with GMP that those re-entering the Premises from the smoking area would not need to be re-searched. The DPS accepted they had been asked to fill gaps and raise the barriers in the smoking area. After the previous review, the DPS stated they had a meeting with SIA trained staff to discuss the new condition. They had checked that the door staff were meeting the condition and were unaware of any issues. They noted that no Responsible Authority's had suggested that the condition was not being met. The DPS stated that the two females who had entered the Premises without being searched was unacceptable, noting the condition was clear. The DPS had invited their head door man to attend the hearing but they had refused. The DPS felt that the door staff were at fault on this night as the DPS had instructed them of how the new searching condition should work. The Premises had 8 Bodycams for door staff, even though the condition only requires 1 inside and 1 outside. Bodycams only required to be activated when there was an incident as the memory cards were not large enough to last a full night. The DPS felt they were meeting this condition, although accepted that door staff had not activated them on the night as they had not followed instructions. The DPS had since bought new memory cards for the Bodycams that would allow them to record a full shift. Door staff at the entrance also have responsibility for the use of Nitenet. It was not used on the night as the door staff with this responsibility went inside and had no signal whilst the DPS remained on the phone to GMP.

The DPS stated that the incident book was used at the Premises but noted it had not been for this incident. This was due to an email being sent to GMP by the general manager. Whilst the general manager was not on site for the incident, the DPS stated that they assisted in sending their statement to GMP due to English not being the first language of the DPS. Statements were gathered from staff by the DPS and general manager without GMP request. CCTV was viewed by GMP on the night and was sent to GMP around 6 to 7am that morning. The night in question was a usual Saturday night at the Premises, there was nothing different. The DPS stated that their usual customers were students and that the perpetrators were not regular customers. The DPS felt that the 'knife arch' would keep weapons away from the Premises and prevent human error. The DPS was looking for a new door team as they did not have confidence in the current team. In using a 'knife arch' the DPS stated that those in the smoking area would have to go through the arch again on re-entry. The DPS felt that the ID scanner would improve public safety by showing people with previous criminal records and they could be kept out. They felt it would also deter people from entering the Premises. Every person entering the Premises would have to use the ID scanner. The DPS was confident this could be managed.

The DPS felt nothing had recently changed to lead to the incidents but accepted the need to update their facilities. The DPS noted that GMP sought the revocation of the Licence but stated they were sorry about what had happened. They stated that they take their job very seriously and had always worked closely with the Responsible Authority's. They were confident that with the proposed conditions, an similar incident

would not occur again. They noted the difficulty of the nightclub industry since the pandemic and asked the panel to give them another chance. The DPS was confident in their ability.

Under questioning from GMP, the DPS noted they had been in their position since 2019 but had owned the Premises since the Licence was granted in 2012. The DPS stated that during the entire incident, they had remained in their office due to being on the phone to the police operator. The DPS stated they were using a mobile phone so could have left the office but felt the signal was stronger in their office. The DPS accepted again that their phone call was made 4 minutes before GMP arrived and not 15 as they had previously said. The DPS accepted that they had agreed to raise the barriers in the smoking area, however GMP felt it was clear on the CCTV this had not been done and the barriers remained at waist height. The DPS felt the barriers had been broken during the night but admitted they had not seen this happen. The DPS stated they had a radio and that they had instructed the DJ to stop the music and close the venue when the incident occurred. The DPS admitted to not instructing the door team to contact Nitenet or to use their bodycams over the radio but stated this was due to being on the phone to the police operator. The DPS said that they checked the door team were completing their searches correctly every five or ten minutes. They did not see the staff allow the two females in without searching and did not see any poor standards on the night. The DPS, when asked about Bodycams, referred to the condition on their Licence which required two Bodycams to be in use on each night. The DPS, when asked if it was prudent to only use two, felt it was not necessary to use more as the condition did not require it.

The Premises had two teams of door staff, one internal and one external. The external team had been employed since 2022. The DPS accepted the door staff issue on the night was their internal team. The door team have a sign-in sheet but surnames were not provided on it as the Premises already hold their information on file. The DPS and general manager accepted they had not signed the sheets, which was a condition of their Licence and therefore accepted that this was a breach of their conditions.

The DPS did not provide a statement straight away due to English not being their first language and therefore waited for the general manager to be there to assist. The DPS had seen the CCTV before making their statement, yet had written in their statement that they assured the panel that the 'knife wands' were used. GMP stated that could not be true, as seen on the CCTV. The DPS stated they had not noticed that when viewing the CCTV.

LOOH then questioned the DPS and general manager. They stated that they had ran the 'Vision Night', the event on this night, since 2022. The promoter was Nocturnal Events, which was a promoter solely used by Vision. The DPS reiterated that two Bodycams were being used by the door team but were not activated during the incident.

The panel then questioned the DPS and general manager. The DPS stated that they had shown door staff how to use the 'knife wand' but there had been no formal training. The memory cards for the Bodycams were suitable for 400 minutes of recording, not continuous recording but the DPS and general manager felt that had

not been required. Door staff were trained through a briefing each night to inform them how many people were expected to arrive that night. Staff were also taken out every four weeks where the DPS would review their performance. The panel raised concerns to the DPS that this did not constitute training and that they were unsure of the role expected of door staff. The DPS noted there had previously been minor incidents that had been recorded on Bodycams and the panel were concerned as to why they were not then used for an incident of this nature. The DPS stated that Nitenet does not work inside the Premises but they had internal radios that did work.

Vision's legal agent clarified with the DPS that on the night, 2 door staff were employed internally and 4 externally. The general manager stated it would be a simple process to remove the internal door staff, and that they would follow employment law.

Vision's legal agent then summed up their case by stating that the panel had a range of options available to them, accepting it was a difficult decision. They understood that GMP had requested revocation but noted that GMP had only weeks before felt that the Premises was well run. They accepted that things had gone wrong but put that down to the door staff not following instructions from the DPS. Bodycams were being worn but were not used, this was not in the control of the DPS. Nitenet was also in the control of door staff. The agent felt that all issues could be resolved by removing the door staff. They believed that the proposed conditions, 'knife arch' and ID scanner, would act as a deterrent to those carrying a weapon. They noted that the ID scanner would have a centralised database to highlight problem customers. They reiterated that the DPS was sorry for what had happened. The agent felt that the panel had to look to who was to blame for the incident, which in their opinion was those carrying knives and not the DPS or Premises. The agent felt the DPS was a responsible operator and that revocation was not appropriate.

The panel clarified if all doors into and out of the Premises would be covered by a 'knife arch'. The agent stated that they could be if required.

LOOH summed up by stating that the Premises had had two serious incidents in a short time-frame. Both of those incidents came from people who had been in attendance at the Premises. LOOH were of the opinion that the Premises had significantly undermined the Licensing Objectives, particularly the prevention of crime and disorder. LOOH supported GMP's recommendation of revoking the Licence.

GMP summed up by stating that they were shocked that such a serious incident had happened only 10 weeks since the last knife related incident and had resulted in 2 males being stabbed and others receiving injuries. The latest incident started inside the premises and then escalated on the door step of the premises before spilling out across a busy main road causing vehicles to have to stop. All persons involved in this brawl were customers of Vision and anyone witnessing this violent brawl would surely have been shocked and fearful, according to GMP. The staff and security had not adhered to the conditions of the licence and the searching procedure on the night was scant and allowed people to enter without being wanded, according to GMP. Bodycams had not been operated at any point and NiteNet has also not been used at any point, so GMP felt that raised serious concerns about the safe operation of the premises. GMP stated that those are conditions which are attached to the licence so

that when incidents occur, and the conditions are abided by, there was a greater chance of securing evidence and bringing those responsible to justice. GMP believed that the premises now attracted customers who were willing to use knives on other people and as such had become an unsafe venue for both customers and staff and, as such, GMP did not believe that it should be allowed to continue to operate as a licensed premises. GMP did not believe the addition of further conditions was sufficient as the premises were not abiding by those that they already have, as demonstrated on the night. Therefore, GMP saw no option that can guarantee that incidents like this would not occur again in the near future, other than revocation of the premises licence, so GMP asked the panel to revoke the premises licence forthwith.

In reaching its decision the Hearing Panel considered the Council's Statement of Licensing Policy, the Licensing Act 2003, the Regulations made thereunder, and the Guidance issued by the Secretary of State under Section 182 of that Act and the Licensing Objectives. The Hearing Panel also considered the documentation provided in relation to this incident, the oral representations of GMP, LOOH and Vision and their legal representative, alongside the written representations of residents. The panel considered that there had been a previous Summary Review due an incident involving a knife where a victim was slashed across their face and left with permanent scarring. The panel took note of the modified Condition 10 on Vision's Licence following that Summary Review, which was:

10. Every customer entering or re-entering the premises will be searched with a metal detector wand by an SIA registered door supervisor and this is to be carried out in full view of recordable CCTV camera(s). Any person in possession of a weapon will be refused entry and the police will be called. Any person refusing to be searched or not passing a search will be refused entry. Notices stating that every customer will be searched with a metal detector wand will be displayed prominently at the entrance to the premises.

Despite the addition of this condition, the panel noted that the Premises was before them again for a similar incident involving the use of a knife only 10 weeks later. The panel noted that this incident had begun inside the Premises and spilled on to the street outside, resulting in two victims being stabbed. The incident had caused traffic to stop on the street, putting patrons and members of the public at risk.

The panel considered the CCTV that had been shown by GMP and Vision's legal representative. The panel noted that both LOOH and GMP had visited the premises and saw evidence that the condition was being met at an earlier date. However, the panel accepted that the CCTV from the night in question showed clearly that the additional condition imposed was not being adhered to.

The panel noted that the blame was being laid at the feet of the door team at the Premises, particularly the internal team employed by the Premises themselves. The panel also noted that the DPS themselves was SIA qualified. The panel accepted from the CCTV footage that it was the internal door team that were not completing the required standard of searching and allowing two females to enter the premises with no search at all.

The panel considered the proposed conditions from Vision to address issues at the Premises, which were:

REPLACE ANNEX 2 CONDITION 10 WITH:

10. Every customer entering or re-entering the premises (including those returning from the smoking area) must pass through a metal detector arch located at the front door of the premises. Customers must only pass through the metal detector arch in the presence of a SIA registered door supervisor. Any person activating the metal detector will be searched for any metal items by a door supervisor. The metal detector arch will be covered by a specific recording CCTV camera, showing a clear full body image of all persons entering and being searched. Any person in possession of a weapon will be refused entry to the premises and the police will be called. Any person refusing to pass through the metal detector arch will be refused entry to the premises. Notices stating that every customer must pass through a metal detector arch will be displayed prominently at the entrance to the premises.

REPLACE ANNEX 2 CONDITIONS 5 ix and x WITH:

5 ix Whenever the club is open to the public, at least one door supervisor working inside the premises and at least one door supervisor working outside the premises will utilise a body worn camera which will be activated from the start to the end of the door supervisor's shift.

5 x Whenever there is an incident of crime or disorder at the premises, the body worn camera footage for that shift will be downloaded and will be stored unedited for a minimum period of 28 days. At least one member of staff at the premises will be available during the opening hours of the premises who can provide viewable copies of the footage to GMP and other responsible authorities on request.

NEW CONDITION:

The premises will install an ID scanner system at the box office. The ID scanner will be covered by a specific recording CCTV camera. On entry to the premises, all individuals must either (a) present a valid form of Government issued identity document for scanning through the system or (b) (where their identity documents have already been scanned and stored to a customer account) biometric identification (such as a fingerprint) matched to their ID document which has been previously stored. Persons who are unable to provide valid ID documents/biometrics matched to ID documents will be refused entry to the premises. Scanned ID documents will be securely stored and retained for a period of no less than 30 days. Scanned ID entry data will be made available to GMP and other responsible authorities on request.

The panel accepted that the proposed conditions, particularly the use of a 'knife arch' and ID scanner, still required human intervention. The panel were of the opinion that the 'knife arch' could easily be switched off or have its sensitivity altered. It was also the case that if metal was detected by the arch, that the door staff would be required to search the customer. After viewing the CCTV, it was clear to the panel that they could not have confidence this would be completed sufficiently. The ID scanners also

required door staff to ensure that all customers were using them. The panel also had concerns that the Premises already had Bodycams for the door team but they had not been used at either incident that resulted in a Summary Review, yet they had for other minor incidents. The panel did not have confidence in the DPS to monitor that the conditions proposed would be implemented, after accepting that the DPS had allowed a number of conditions to be breached during this incident.

The panel did not see fit to remove any licensable activity as there was no suggestion either incident was due to alcohol. The panel also did not have confidence in the DPS going forward. However, they did not see fit to remove the DPS as they were the owner of the Premises and the panel felt they could still have undue influence over the running of the venue.

The panel did consider suspending the licence but noted that the DPS had taken no responsibility for the incidents, simply looking to blame the door team. The panel were satisfied that a suspension would not address the issues at the Premises.

The panel raised further concerns that Nitenet had not been used on the night. They had accepted that there was connectivity issues inside the Premises, but this could have been utilised by the door team at the entrance of the Premises.

The panel were concerned that the DPS was SIA qualified, yet was unable to provide any evidence of the training provided to the door staff, except for a nightly briefing as to how many tickets were sold and a regular meal out for those members of staff.

The panel did consider that the premises had ran without a major incident for 12 years prior to the first Summary Review, but noted that the premises could not provide a reason for the change. The panel were extremely concerned that there had been 3 stabbing incidents across two separate nights at the Premises. The panel were not satisfied that the security and management was strong enough to prevent such an incident occurring again and did not believe the premises could promote the Licensing Objectives of the prevention of crime and disorder, and of public safety.

Decisions

1. To revoke the Premises Licence pursuant to s53C(3)(e) of the Licensing Act 2003.

Interim Steps Decision

2. To maintain the suspension imposed pursuant to s53D(3)(d) of the Licensing Act 2003.g Act 2003.