

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 1 August 2023

Present: Councillor Flanagan – in the Chair

Councillors: Flanagan, Hilal, T Judge and Grimshaw (for LACP/23/73 only)

Apologies: Councillor

Also present: Councillors:

LACHP/23/69. Urgent Business - Temporary Event Notice - The Rastafarian Church, 232 Claremont Road, Manchester, M14 4TS

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.

A Temporary Event Notice (TEN) had been received regarding an on licence to supply/sell alcohol from 1900 hours on 11 August 2023 until 0400 hours on the 12 August 2023. No further details were provided on the Notice except for the fact this was to be a fundraising event.

Objections were received from relevant authorities, namely Greater Manchester Police, (GMP) and Environmental Health (EHO) on the basis that the event was scheduled to take place during the Manchester Caribbean Carnival weekend, a huge two-day event. Claremont Road was within the parameters of the event and the area was subject to impromptu street parties, copious amounts of on-street drinking and outbreaks of violence placing extra pressure on resources and an additional event would or could exacerbate those issues. GMP accepted that the Church had, had several TENs and stated that whilst they were not suggesting that the Applicant was a bad operator – and gave emphasis to the timing and location of the event being of concern as well as the Applicant's ability to control dispersal of patrons or manage unexpected ingress of crowds.

EHO objected to the TEN on the basis Claremont Road was a key road with the potential for people who had been drinking for several hours causing problems at the venue; in addition, EHO questioned the ability to control the event as the Applicant was not a personal licence holder, (PLH), however they also stated the inclusion of a PLH would not lessen their concerns.

The Applicant explained the following: -

1. The event was for one of their foundation members who is ill, and the Church wanted to raise funds to assist medically. The member was in a wheelchair and was to perform at the event with supporting acts.

2. The event was being organised by a promoter as a 'tribute' event and they had put the whole package together; the event was open to the public not just members of the church and there had been various advertising mechanisms to promote the event by different parties.
3. It was an event was likely to attract an age group of the over 40's; there was not an intention to drink until 0400 and they would guarantee a PLH would be on the premises at all times.
4. The numbers expected were not 499 but approximately 250 - 300 (previous events had been 300 – 350 but people came and went throughout the day) – the Applicant was unable to confirm how many tickets had been sold at the time of the hearing because as a promoter was organising the event and therefore, they had no control of the numbers until the day of the event.
5. On questioning the Applicant confirmed that they had their own SIA security described as a minimum of 6 outside and 3 on bag security. Furthermore up to 14 of their members would act as security inside
6. The Applicant was unable to provide details regarding dispersal other than to confirm the Church did invite the community in and would politely disperse patrons
7. When questioned, the Applicant was unable to confirm any knowledge regarding the licensing objectives other than to say there should be no alcohol sales to persons under 16 and no drunk and disorderly behaviour.

In reaching its decision the Panel carefully considered the Council's Statement of Licensing Policy, the Licensing Act 2003, the Regulations made thereunder, the Guidance issued by the Secretary of State under Section 182 of that Act and the Licensing Objectives.

The Panel expressed concern that the Applicant was not aware of the Licensing Objectives and concluded that, as a result, they would be unable to promote them or prevent them being undermined.

The Panel was also concerned that notwithstanding the history of TENs at the premises, on this occasion, the Applicant submitted details about the event that was not comprehensive on the basis that it was being run by an external promoter who was organising the 'whole package'. The Panel could not be satisfied that the Applicant had provided a sufficient level of knowledge about how the event would be operated.

The Panel also took into consideration that the Applicant was not able to provide a sufficient level of detail about the number of people the premises anticipated, (albeit limited to 499), nor a sufficient level of information about staff training in relation to any age checks regarding the sale of alcohol, dispersal of a large number of people at the conclusion of the event or the possible influx of unwanted people.

The fact the Applicant was not a PLH was not an issue and although there was discussion regarding the hours applied for and the Applicant amended the terminal hour to midnight, in view of the above, the Panel was not satisfied that the Applicant had sufficient knowledge of how the event would operate, their lack of knowledge of the controls in place to ensure the safety of patrons attending the venue, the location and timing of the event i.e. its proximity to the Carnival. In their opinion, the event

would undermine the licensing objectives of, the prevention of Crime and Disorder and the prevention of Public Nuisance and should therefore not take place.

Decision

The serve a counter-notice to the application.

LACHP/23/70. Application for a Premises Licence Variation - Fallowfield Convenience Store, 240-242 Wilmslow Road, Manchester, M14 6LD

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 was informed that prior to the hearing, the Applicant had amended the application such that agreement had been reached between the Applicant and all parties who had made a representation. The matter was therefore treated the matter as a determination. In reaching its decision the Committee also 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

To grant the application, with the following amended conditions as agreed

Sale of Alcohol:	0800 – 0000 (Off only) Mon - Sun
Opening Hours	0800 – 0000 Mon - Sun
Late Night Refreshment:	Not applicable

ANNEX 2:

Removal of Condition 7: All alcoholic products shall be labelled with the name of the shop.

Removal of Condition 12: The Challenge 25 Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 25. The only acceptable forms of identification are a passport or photo card driving licence.

Replace with:

The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and/or ultraviolet feature. Examples of appropriate identification include a passport, photocard driving licence, military ID, and Home Office approved proof of age ID card bearing the PASS hologram.

ANNEX 3:

Removal of Condition 1: All staff selling alcohol shall hold a personal licence.

Removal of Condition 2: All staff selling alcohol shall undertake extra training on the following areas;

- a) The law concerning the sale of alcohol.
- b) The four licensing objectives.
- c) Conflict Management.

Replaced with:

On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters. Training shall be regularly refreshed at no less than annual intervals. The training must be recorded and be accessible on the premises and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.

LACHP/23/71. Review of a Premises Licence - Collyhurst Village Store, 1 Harrowby Drive, Manchester, M40 8LP

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.

A Review had been brought by Trading Standards on the grounds that the licensing objective of the Prevention of Crime and Disorder had been undermined by the illegal activities taking place in the premises. A number of breaches were cited and it was asserted that the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) had not been present. The Panel was invited to note that the following had not been disputed: -

1. That the PLH/ DPS was the owner of the premises
2. That all tobacco recovered/seized had been counterfeit
3. That this was in contravention of the Trade Marks Act 1994
4. That the vapes seized were none compliant with the Tobacco and Related products Regulations 2016
5. That none of the incidents were disputed

The Hearing Panel was advised of the following activities:

Following a complaint of illicit tobacco sales an inspection had taken place on 26 February 2016 with a tobacco trained dog had taken place and 200 cigarettes and 400grams of hand rolled tobacco had been found under the counter; on the basis put forward by the PLH/DPS that his shop assistant had brought it to the premises to sell and was no longer involved with the premises, the PLH/DPS was issued with a warning and a Licence Action Plan meeting took place.

Following a further complaint, an inspection of the premises took place on 30 November 2018 whereupon 140 cigarettes were seized and 100grams of hand rolling

tobacco. Despite assurances from the PLH/DPS that the staff member was no longer involved with the premises, he was again present on this second occasion.

Further intelligence was received regarding illicit tobacco sales and therefore an inspection took place 14 February 2019 whereupon 180 cigarettes were seized – a staff member was present in the shop.

The PLH was subsequently interviewed under the provisions of PACE i.e., under caution and claimed to have no knowledge of the illicit tobacco and claimed the items were his employees' items for their own personal use.

Following a further complaint, a test purchase took place on 26 February 2021 whereby a single cigarette was sold to a minor following which the PLH/DPS received a further written warning.

A test purchase took place on 22 January 2023 whereby a packet of Richmond cigarettes was purchased and upon sale, they were retrieved from behind the clock above the tobacco gantry. The price charged was £5.

An inspection subsequently took place, and 256 illegal vapes were seized (due to their size being non-compliant with the tobacco Regulations) and there were cigarettes concealed behind the clock as described and a further amount in the rear stock room.

Subsequent to this, Trading Standards had invited the PLH/DPS for a further interview and upon his request, allowed him to have the interview in written form. He did not respond to any of the questions save for confirming the premises was a company. He was written to in his capacity as a Director and his response was the same with no questions being answered.

In total 1280 cigarettes – all counterfeit along with 500grams of hand rolling tobacco and 256 non-compliant vapes.

Trading Standards were therefore of the opinion that PLH/DPS was no longer in control of the premises and the licensing objective of the Prevention of Crime and Disorder was being undermined. They sought revocation of the licence.

The PLH/DPS stated he had initially run the business with his wife. It was a very difficult area and it had, had a significant impact on his wife's health during her pregnancy. He had, had to put staff in who could deal with the type of customers in the area and although he attended most days having been to the cash and carry, he had other commitments namely his child i.e., getting them to school/looking after them whilst his wife worked. He had tried to sell the business but was unsuccessful.

He did not dispute the evidence provided and accepted he had sold illegal vapes but stated he had not known about the issue with permitted size of a 2ml maximum. When questioned he was not able to provide any knowledge of the licensing objectives.

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In reaching its decision the Hearing Panel 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 Hearing Panel did not accept the PLH/DPS's ignorance of the activities. He had been made aware of the illegal activity in 2016 and claimed to have removed the employee he held responsible however, two years later, on a further visit/inspection (due to another complaint), that employee was still there.

Further seizures had taken place and had escalated with evidence of sales to a minor, cigarettes secreted behind a clock and illegal vape sales. Therefore all products were in contravention of legislation designed to protect the public and it was clear criminal activity was taking place. PLH/DPS was fully on notice of this having been warned, he had, had two Licence Action Plan Meetings and been subject to PACE interviews under caution both physically and in writing.

He had failed to address the issues and more recently, failed to engage with the local authority's Trading Standards.

All of the above, in the Hearing Panel's opinion affected the promotion of the licensing objectives – licensing objectives that the PLH/DPS appeared to know nothing of.

The Hearing Panel noted that the PLH/DPS had, had more than sufficient notice of the issues.

The Hearing Panel considered all of the options open to them under the provisions of s53C of the Licensing Act 2003, namely:

- a) the modification of the conditions of the premises licence,
- (b) the exclusion of a licensable activity from the scope of the licence,
- (c) the removal of the designated premises supervisor from the licence,
- (d) the suspension of the licence for a period not exceeding three months, or
- (e) the revocation of the licence.

Upon consideration, the Hearing Panel had no confidence in the PLH/DPS as owner, Premises Licence Holder and Designated Premises Supervisor and in view of the nature of the criminal activity, lack of action and engagement and lack of control of the premises in their opinion, the only appropriate course of action for the promotion of the licensing objectives was revocation.

Decision

To revoke the licence in line with Section 53C(3)(e) of The Licensing Act 2003.

LACHP/23/72. Application for a New Premises Licence - Empire House, 2 Empire Street, Manchester, M3 1JA

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.

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 Applicant advised that prior to the hearing the application was amended to reflect a reduction in the hours applied for and a number of further conditions (see below).

This Application was therefore agreed by all parties prior to the hearing, subject to the agreed amended hours and conditions confirmed asset out below and therefore treated as a determination.

Decision

To agree the amended application and additional conditions as set out below:

Sale of Alcohol:	12:00 – 23:30 Sun – Thursday
	12:00 – 04:00 Fri - Sat
Opening Hours	12:00 – 00:30 Sun – Thursday
	12:00 – 04:30 Fri – Sat

1. All public areas of the licensed premises, including all public entry and exit points. The CCTV cameras shall continually record whilst the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce / download / burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format so it can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (i.e. compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
2. An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:
 - (a) all crimes reported to the venue, or by the venue to the Police
 - (b) all ejections of patrons
 - (c) any incidents of disorder
 - (d) any faults in the CCTV system
 - (e) any visit by a relevant authority or emergency service

3. The Designated Premises Supervisor shall ensure that a written notice of authority is kept at the premises for all staff who sell alcohol. The notice shall be made available for inspection upon request of the police or an authorised officer of the licensing authority and all staff selling alcohol must be in possession of formal identification
4. SIA registered door staff will be on duty at a rate of 1 per 50 guests

LACHP/23/73. Application for a New Premises Licence - Goodtime Games, 212 Burton Road, Manchester, M20 2LW

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 considered the written representations from the Licensing Out of Hours Compliance Team, Didsbury West Ward Councillors and those from the business operators working above the premises.

The Hearing Panel noted that the Licensing Out Of Hours team had withdrawn their representations based on an agreement with respect to additional conditions namely:

1. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance
2. Staff shall monitor customers smoking outside the premises on a regular basis and ensure patrons do not cause a public nuisance.
3. Notice shall be displayed at any area used for smoking requesting patrons to respect the needs of local resident and use the area quietly
4. A prominent, clear, and legible notice shall be displayed at the exit to the premises asking customers to respect the needs of residents and to leave the area quietly.
5. The emptying of bins and refuse collections, shall not take place between 22:00 and 08:00 hours.

In reaching its decision the Hearing Panel 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 Hearing Panel noted the representations raised by the operators above the premises related to noise nuisance and use of the rear yard for customers.

The Hearing Panel was of the opinion that the additional condition (1) would address the alleged noise issue and also noted Burton Road was also a noisy and busy road generally.

The Applicant's reassurance that he had no plans to open rear courtyard to customers would address the other issue. The Applicant's advising it was his intention to replace the rotting fence and dangerous wall to make the area secure, following a theft from the courtyard; he had also put a planter and compost bin in place, and he intended to use the area for personal use having no garden of his own.

The Hearing Panel noted that alcohol was already consumed on the premises by way of 'bring your own' and there was no evidence of any issues arising at the premises as a result of this. They also accepted this was not a dink-led establishment.

The Applicant provided an acoustic report to the Hearing Panel however, this was in relation to planning matters and therefore did not form part of the Hearing Panel's considerations or decision however, the Hearing Panel felt the instruction of a professional sound consultant indicated the responsible approach being taken by the Applicant.

The Hearing Panel accepted the Applicant's account that he had very good relationships with his neighbours and the residents at rear with no complaints from them and were of the opinion the premises was a responsibly and well-run establishment and the Applicant was had a good understanding of the licensing objectives.

Decision

Subject to confirmation of the opening hours and hours for the supply of alcohol being confirmed, the Application was granted in principle.

[Councillor Hilal disclosed a personal interest in this item. She did not take part in the discussion of this item, nor its decision and withdrew from the hearing. She was replaced as Panel Member by Councillor Grimshaw].

LACHP/23/74. Application for a New Premises Licence - Casa Mia, 29 Shudehill, Manchester, M4 2AA

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.

Written representations were received from the relevant authorities, namely GMP, the Licensing Out of Hours Compliance team and Trading Standards. The Panel was made aware that conditions had been subsequently agreed with GMP however they resolved that these were not sufficient to address the Panel's concerns regarding the promotion of Public Safety licensing objective.

An identified risk factor was the entry point to the premises and the risk to patrons whilst queueing to enter the premises, as well as their safety when leaving the premises.

Shudehill was noted to be a live and busy road for both vehicular and pedestrian traffic and opposite a busy junction. This was not disputed by the Applicant. With reference to the photographs that were provided, the Panel noted that the entrance to the premises was sited directly onto the narrow pavement area which raised concerns that queuing customers would be in close proximity to the busy road with no room for protective barriers and obstruct the path for pedestrians or wheelchair users leading them to step in the road. Concerns also centred around larger numbers of patrons dispersing from the property at or near the terminal hour being would be at risk due to the proximity of the entrance/exit to the road given the narrow pavement.

The Panel considered the proposal that the construction of a 'lobby' area however, no sketch or plans had been provided to confirm its size or how it would operate. Consideration was also given to the proposal to use the land at the side and immediately adjacent to the building of the premises which had been described as the 'defunct' queuing area for the Shudehill Tram Station however, the Applicant was unable to confirm that they had the right to use the land and had no confirmation as to its ownership.

A dispersal policy was also provided by the Applicant. On reviewing the policy, the Panel could not be satisfied that this addressed the risks that had been identified as it dealt with the shut down of the premises as opposed to the actual dispersal supervision of patrons from the premises. The Panel also noted that there was no policy in relation to the management of queues.

In reaching its decision the Hearing Panel 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.

In summary, the Panel resolved that there was a significant risk to the undermining of the licensing objective of Public Safety and refused the application.

Decision

To refuse the application.