

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Wednesday, 27 September 2023

Present: Councillor Grimshaw – in the Chair

Councillors: Flanagan and Hewitson

LACHP/23/94. Application for a New Premises Licence - Union East Tower, Union East Tower, Water Street, Manchester, M3 4JQ

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.

Trading Standards had confirmed that they had reached agreements with the applicant ahead of the hearing.

The applicant's agent addressed the Hearing Panel and stated that the previous "fob" access to the vending machine had been replaced with a phone app. This had been refined during discussions with Dr Parker from Public Health Manchester. The application was for an alcohol vending machine in the reception area of a high rise development that was currently under construction. The applicant was seeking an alcohol licence to cover the ground floor, reception area, outdoor area and 1st floor amenity room. The development would only allow access to these areas to residents and their guests and there would be a contract stipulating house rules for all tenants. An alcohol vending machine was an unusual request and the applicant had met with GMP and LOOH for consultation. The purpose was for the convenience of residents. Conditions were confirmed and were included in the pack. The reception area was staffed and open 24/7. The staff would be trained in the sale of alcohol and would be on hand to turn the vending machine on and off at appropriate times. Entry to the complex would also be by phone app and these personal identifications would ensure that all transactions were verified as they would be verified with Vita, the developers of the complex. The residents would also have access to the 1st floor amenity space which was a multi-purpose space for dinner parties and events etc. The premises would operate with layers of security and house rules were explained within the pack. For instance, residents' access to the vending machine could be deactivated if they caused trouble. The remaining objection from Dr Parker at Public Health Manchester rested on the potential for children to access the vending machine. The agent and applicant had spent 14 days in contact with Dr Parker and attempted to allay her concerns. The engineers of the scheme had been engaged with and confirmed that only residents registered with Vita could access the machine. The vending machine would be very close to the reception area so easily monitored by staff and residents would not risk maltreatment of it. If there were to be no vending machine the applicant would still want to licence the reception area and they had already been extra expenditure on the development of the phone app.

The applicant addressed the Hearing Panel and stated that this was for convenience and was a new concept in Manchester. It would not cause any nuisance. This development was all 1 bed dwellings of single occupancy and no under 18s would be living there. Each resident would have to apply for the app and all terms would be listed in their tenancy agreement.

In responding to questions, the applicant and agent stated that:

- Residents would scan the fob, then choose the item and add to basket to purchase drinks
- Age verification was done via the links between the app and the tenancy agreement
- There was no face recognition on the app but the reception area had CCTV
- The applicant was able to name one of the licensing objectives
- Union Living would employ and train staff in line with directives from the Director and Head of Operations and other managers
- The applicant confirmed that he had responsibility in this area
- All events in the amenity area would be ticketed and limited with extra staff employed for cover
- Residents would not be able to bring guests to these events
- There would be a concierge/security person on duty with 1 or 2 available 24/7
- There would not be any other vending machines in the reception area
- The amenity area would be closed at 00:00 and lifts up to the dwelling spaces would also be operated by a phone app
- Staff would not be required to man the amenity area during normal open use
- This was not a hotel and guests would be limited to 1 person per resident
- The amenity space would be available 24/7, the vending machine would cease trading at 00:00 and the outdoor area was limited to 23:00
- The applicant explained his knowledge of the Challenge 25 policy
- They could not guarantee that there would be no under 18s on site at any time if they were friends/relatives of residents but access to the vending machine would not be available to under 18s
- The vending machine would sell bespoke brands so any other alcohol brought in by residents would be easily identifiable
- Residents would have to speak to the receptionist if their phone ran out of battery
- Decibel levels would be capped for any events and there would be quiet acoustic live music sets for residents only
- The outdoor area was mainly for summer use, with 2 retail outlets to be confirmed and no live music

Public Health Manchester addressed the Hearing Panel and stated that they had concerns over upholding the licensing objectives concerning crime and disorder and the protection of children from harm. This application did not meet the age verification policy and it would be possible for under 18s to access alcohol. Dr Parker could not see how this could be 100% fool proof. The receptionist/concierge would be too busy to monitor the vending machine at all times. There was no mention of ID being presented to prove age and the process was inappropriate.

In responding to questions, Public Health stated that:

- Under 18s could access the vending machine

- This may be a low risk but it was still a risk
- The UK did not have many alcohol vending machines but research from Japan where there are many have shown them to be a source of alcohol for underage drinking
- This is why policies are in place, to protect from the potential for harm
- The vending machine was the main point of concern and not the upper floor or outdoor area
- It was better to use Challenge 25 and have a responsible person to verify customers age

In summing up, Public Health Manchester stated that there was a lack of safeguarding attached to the application for this vending machine. There was a notable lack of a responsible person taking care of alcohol sale and this could be a condition to attach if the Hearing Panel were to grant this application.

The applicant's agent summed up by stating that there was a concern over a problem that does not exist. There was a very low chance of an underage person getting a resident's phone, using the code and inputting a payment for alcohol. GMP had no concerns and there were strong conditions tailored to this application. This was for a private residential block and the conditions should not be a burden to these residents. If the applicant breached those conditions, they could incur a fine, a prison sentence or lose their licence. Vita wanted to have a good reputation. It was not possible to create a perfect world but this application gave as close to zero percent chance of anyone underage using the vending machine.

Decision

To grant the licence with the additional condition that alcohol sales from the vending machine would be verified as per the Challenge 25 policy.

LACHP/23/95. Application for a New Premises Licence - Liquor Land House, Unit OA016, 40-46 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.

It was confirmed at the start of the hearing that responsible authorities, GMP, Trading Standards and LOOH had all made agreements with the applicant.

The applicant addressed the Hearing Panel and stated that Challenge 25 would be adhered to at all times and no intoxicated customers would be served. Training on sale of alcohol and refusals would be provided and all logs would be dated and signed. Signage would be displayed at the till and throughout the unit. All these policies would be applied to deliveries via a third party. All information would be checked by the DPS at the end of each week. Additional conditions agreed with LOOH numbered 1 to 6 had been provided.

In responding to questions, the applicant stated that:

- CCTV had been set up in the unit
- They had been in place at the unit for 3 months and in the area for 6 months
- The applicant's driver would undergo training refresher courses every 6 months
- The applicant would keep a log of all refusals, including those made by the driver
- Uber would provide driver details to the applicant

Trading Standards addressed the Hearing Panel to inform them that they had refused the initial application due to a lack of details on age verification, training, third party driver training and recording of refusals. They now had these covered in conditions agreed with the applicant.

In responding to questions, Trading Standards stated that:

- The applicant could place additional CCTV around the unit
- It transpired that this was not an enforceable condition and the wording was changed from CCTV to be placed "in and around" the unit to just "in" the unit (all 3 responsible authorities agreed this change of wording for the condition attached)
- The responsible authorities would have to go to the unit complex management company for CCTV footage on the exterior of the unit
- Trading Standards would receive 6 monthly info on training for Challenge 25 but not personal details of delivery drivers

LOOH addressed the Hearing Panel and confirmed that they had agreed conditions specific to noise nuisance concerning deliveries to the unit. Also training concerns had now been addressed.

GMP addressed the Hearing Panel and stated that the initial application was sparse. The updated conditions would uphold the licensing objectives.

In their deliberations, the Hearing Panel considered that all 3 responsible authorities had agreed conditions and felt that this would assist the applicant in upholding the licensing objectives.

Decision

To grant the application subject to conditions agreed with GMP, Trading Standards and LOOH with additional conditions:

- CCTV to be kept on file for 31 days and to be available to the responsible authorities on reasonable request
- Signage to be placed inside the unit regarding CCTV usage

LACHP/23/96. Application for a Premises Licence Variation - Mini Megasave, 81 Cross Lane, Manchester, M18 8NY

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 and stated that this was an application for a Variation of Premises Licence, currently running with permitted hours. There was a national trend for later hours and this application sought to follow this trend and it was stated that this request should be judged on its own merit. The application had taken into account and addressed all factors of the Licensing Policy, no licensing objections would be undermined. A list of conditions had been proposed to actively promote the licensing objectives. The premises may have to close if undermining the licensing objectives and subject to a review. The applicant had attracted representations from GMP and LOOH over the request to operate overnight between 23:00 and 07:00 seven days a week, and the effect this would have on the surrounding area. There had also been objections from neighbours who were not nearby and other neighbours, closer to the premises, had given their support. The proposal was to offer a night-hatch which was secure and a new member of night staff employed full-time would have the skills to cover this. Alternatively, the application would have an open door policy overnight with an SIA registered door person on duty. The applicant has a personal licence included in the pack. No single cans and no canned drinks over 6% would be sold during the overnight hours. The responsible authorities have alluded to a notional neighbour whereas the applicant has provided evidence of support from actual neighbours by way of a signed petition. Public Health had also submitted an objection and it was stated by the applicant's agent that they were not a responsible authority. There was no evidence of the premises contributing adversely to the local area. The applicant was a hard working, experienced operator with a tight control on the business. Due to Challenge 25 being inoperable on deliveries, the applicant had withdrawn this aspect of the application. Section 182 guidance stated that problems should not be affiliated to the premises if beyond their control. A map had been provided which showed objectors lived some distance away and a campaign had been submitted with the same handwriting throughout. Speculation was not permissible and the Section 182 guidance referred to decisions being evidence based. The agent referred to the Thwaites case, noted that conditions should promote the licensing objectives and requested that the Hearing Panel grant the application as supported by effective conditions.

LOOH requested clarification on the hours of use for the night-hatch and the agent confirmed that there were two options; use of a night-hatch from 23:00 to 05:00 or an open door policy 24/7 with an SIA registered door person on duty.

Local Ward Councillor Reid questioned why the representations made by local Councillors had not been referred to in the agent's presentation. The agent confirmed that they had not been formally served with a copy of this.

The Hearing Panel adjourned to allow this to be investigated.

The Premises Licensing Team confirmed that they had, in error, not sent a copy of Councillor Reid's email to the applicant and the Legal Advisor to the Hearing Panel confirmed that this was in the pack but noted that there was no reference to the undermining of the licensing objectives and was therefore not a relevant objection under the Licensing Act.

The Chair gave apologies to both the applicant and Councillor Reid, stated that officers and Councillors would be advised to be briefed on proper procedure and continued the hearing.

The agent and applicant responded to questions from the Hearing Panel, stating that:

- The applicant knew two of the four licensing objectives
- All 4 licensing objectives were addressed in the application
- The vehicle outside the premises in the photograph belongs to the applicant and the council bin in other photographs had been moved to the other side of the road
- They were happy to enforce a no parking policy outside the shop and no service to anyone doing so and add signage to the premises
- Traffic and parking were not considered under public nuisance
- There would be a licence holder available to staff the overnight hours
- Spirits of 40% and over would be available during overnight hours
- The applicant would inform customers to move on or keep noise down if there was any noise during the late hours
- The applicant was aware it could affect the business if they were to cause problems in the area
- The applicant would call GMP if any customers persisted in causing nuisance
- The applicant was experienced in dealing with noise and conflict
- Some neighbours actively supported the application
- The applicant had been running the premises since 2022 and another premises since 2012
- The applicant lived above the shop with access to CCTV
- Refusals would be kept in a log
- CCTV could record licence plates of vehicles

GMP addressed the Hearing Panel and stated that this was a very residential area and they had concern over the request for 24 hours licence as it was likely to cause nuisance. It was inevitable that noise disturbance was to take place if the applicant was giving mention of having to address customers on parking and noise. GMP suggested a compromise of allowing the premises to trade until 00:00 in line with 2 public houses in the vicinity as this would not create any extra disturbance.

In responding to questions, GMP stated that:

- The location of this premises on a highly residential street was of concern
- Challenging customers can create noise and raised voices and that this was not acceptable in the early hours
- GMP do not want to have to undertake call outs for this kind of minor incident when the premises should be licenced in accordance with its location

LOOH addressed the Hearing Panel and stated that the trading hours should be, as GMP suggested, 08:00 to 00:00, in line with trading at nearby public houses. LOOH stated that they already have complaints due to these premises.

Public Health Manchester addressed the Hearing Panel stating that they were in fact a responsible authority had concerns over the 24 hour licence request which would cause harm coupled with being in breach of the licensing objectives. Increased

alcohol consumption was a known cause of death and hospitalisation and lead to higher deprivation. This application was situated in the 4th most deprived ward of Manchester. This was also the 4th highest area with alcohol misuse treatments. Increased alcohol misuse led to an increase in domestic violence and negative effects on children. There were 1692 known persons dependent on alcohol with children across the city and the Gorton and Abbey Hey Ward has a large percentage of these. Relapse was also a problem. Public Health Manchester had concerns over the sale of alcohol 24/7 and specifically in relation to the licensing objective of protecting children from harm. Evidence had been presented of increased domestic violence, violence, abuse and harm to children.

In responding to questions, Public Health Manchester stated that:

- 2.5 to 3 thousand children were in families where alcohol misuse was an issue across Manchester – details for individual Wards were not known as yet
- 24 hour alcohol sales would most certainly affect people in the area and was disproportionate to the needs of this residential location
- This community should not be subjected to 24hour alcohol sales

In summing up their case, Public Health Manchester stated that they request a refusal for the application. There was evidence that increased sales of alcohol led to increased consumption which led to issues of violence and harm. This would cause the licensing objectives to be breached.

The applicant's agent summed up their case, stating that the premises could trade for 24 hours regardless of the licence being granted but expressed that adding alcohol sales would be a bonus. There had been no evidence provided from GMP of any pre-existing problems attributed to the premises. Regarding the notional neighbours, the applicant had provided supporting information from actual neighbours. They were not convinced that issues arising beyond the vicinity can be attributed to this premises. Speculation should be excluded from any considerations. Low strength alcohol would not cause any spike in issues as reported by Public Health Manchester and there was no evidence that increased sales led to increased consumption of alcohol. It must be proven how the licensing objectives would be undermined by this premises but there were robust conditions offered to address this concern. There are currently no problems noted between this premises and responsible authorities. The applicant would accept a limiting of the hours to 01:00, 02:00 or 03:00. Or the licence could be granted for 12 months and there was always the option for a licence review. 2 further conditions had been offered during the hearing.

In their deliberations, the Hearing Panel considered that this was a narrow residential street. Customers would undoubtedly drive to the location which would lead to parking problems and noise. This would undermine the licencing objective of public nuisance. The Hearing Panel agreed with the responsible authorities request of scaling back hours of alcohol trading from 08:00 to 00:00 7 days a week.

Decision

To grant a variation to extend hours for sale of alcohol to 08:00-00:00 Monday to Sunday subject to a condition of:

To place a fixed litter bin outside the front of the premises.