

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Monday, 8 January 2024

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

**Councillors:** Hilal and Hewitson

**LCHP/24/3. Application for the Variation of a Designated Premises Supervisor - Sky Lounge, 241 Barlow Moor Road, Manchester, M21 7QL**

The Hearing Panel considered the report from the Director of Planning, Building Control and Licensing regarding the above applications. The written papers and oral representations of the parties who attended were also considered, as well as the relevant legislation. The Applicant did not attend the hearing and the Panel agreed to proceed in their absence, noting that no communication had been received in respect of their reasons for absence. The Chair used the agreed procedure to conduct the hearing.

The Panel was told that the premises licence had only been granted in November 2023 and was already subject to a full review due to held on 22 January 2024.

The Panel took into consideration Section 182 guidance which states in respect of a Designated Premises Supervisor (at 4.69) that:

*“The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.*

The Panel accepted the evidence put forward by GMP that the crime prevention objective would be undermined if this DPS was appointed. The proposed DPS was currently the Premises Licence Holder and so was heavily involved with the premises. It was clear from listening to the officer from GMP’s representation, that the crime prevention licensing objective had been undermined by the Premises Licence Holder who now wished to become the DPS.

GMP set out the current serious issues taking place at the premises which were:

1. Persistent refusal from the Licence Holder to comply with the hours and multiple conditions of the licence.
2. Refusal by the Licence Holder to provide CCTV in line with conditions and in connection with allegations of unauthorised licensable activities.
3. Complaints received by members of the public relating to nuisance and licensing offences.
4. Offences being committed under the Health Act 2006 relating to smoke free legislation.

In reaching its decision the Panel 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 Panel concluded that the appointment of this DPS would undermine the crime prevention objective.

## **Decision**

To refuse the application for a variation

### **LCHP/24/4. Application for a New Premises Licence - Lower Campfield Market, Part Ground Floor and Mezzanine, Lower Campfield Market, Liverpool Road, Manchester, M3 4FP**

The Hearing Panel considered the report from the Director of Planning, Building Control and Licensing regarding the above applications. The written papers and oral representations of the parties who attended were also considered, as well as the relevant legislation. The Chair used the agreed procedure to conduct the hearing.

The Panel was advised by the Applicant's representative that only a small part of the building is to be used for this licence application and the building would be mainly co-working office space. The Panel was shown the plans, and it was explained where the desk space was and the proposed licensable area. Further it was explained that the café/restaurant would be mainly used by the general office, but members of the public would also be able to use it. It was explained that the proposed model is used in all of their developments and that they find that their main users are tenants. The Panel was told that this business would create 1600 new jobs. The Applicant's representative went on to explain that the location was previously operated by the Science and Industry Museum and her client was aware of the previous issues with this premises. The premises is in close proximity to residential premises which the Applicant is fully aware of, and this has been taken into account when applying for the licence. That is why there was no application for regulated entertainment. There is limitation to what can be done with the building in view of its Grade 2 listed status. The Applicant's representative advised the Panel that her client had consulted with the residents regarding this application. The Panel was told that a residents meeting took place where 20/30 residents attended along with ward councillors. Following the meeting, feedback was taken on board and as a result only later hours were applied for on a Friday and Saturday until Midnight. The Panel was referred to the proposed conditions put forward by the Applicant which had taken into account the issues residents had raised. The Applicant had agreed to such conditions so that safeguards were in place for the residents. The Applicant's representative advised the Panel that there were other licensed premises in this area that have similar hours and the hours and activities applied for were appropriate for this area. With regard to concerns by residents of noise, the Panel was advised of the conditions that would address the noise issues, namely:

- a) Noise - condition 23,24, 25, 36 and 37
- b) Access and egress - condition 39 and 40
- c) Max capacity is 140 - condition 41

The Panel was reminded that no objections had been received from the Responsible Authorities who are the experts in their fields as confirmed by Section 182 guidance which states at 9.12:

Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area<sup>5</sup>. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

The Applicant's representative proceeded to address the three objections that had been received against this application. After the meeting with residents, the Panel was advised the Applicant wrote to all of them assuring them of the conditions that would be put forward to the Panel. Following the meeting only three objections were received. Only one of whom attended the hearing. The main issues raised by the residents were outlined by the Applicant's representative which were:

1. The hours applied for were too late - which the Applicant disagreed with for a city centre venue.
2. External dining area – it was explained that this did not form part of the application.
3. Glass bins being emptied at night - condition 32 addressed this.
4. Dispersal of customers taking place on Tonman street - this was not the case, Condition 38 addressed this.
5. Noise - an acoustic report had been commissioned, the premises would install insulated curtains and baffles to avoid leakage of noise – as outlined in Condition 37.

Following questioning, the Applicant confirmed they were unlikely to apply for Temporary Event Notices as they have other venues which are better suited for longer hours and have regulated entertainment. In addition, following questioning from the Panel it was confirmed whilst the acoustic report would be paid for by the Applicant, they were bound by professional obligations to recommend only what was appropriate. The Applicant agreed to condition 37 to include "as recommended by a professional acoustic report."

The Panel then heard from a local resident who described the local community as well-established and made up of young and older people adding that whilst the venue was in the city centre, the area itself was quiet. The Panel was advised that

there had been problems regarding noise nuisance previously at the premises when the previous owner occupied the premises and as a result, just one event had ever been held. The resident advised the Panel that whilst an acoustic report had been commissioned, it was unlikely to be purely independent. It was submitted that siting of the bar would be “the worst part of the building as it adjacent to Tonman street where the residential properties are”. The resident explained that whilst they have double glazing in their properties, the Applicant’s building does not. The proximity of the event space to local residents bedrooms was also highlighted. The resident then explained to the Panel that the first they knew about the café and restaurant was when they were contact by the Applicant and that previously they had been told that it would be just for workspace. It was submitted that residents were not consulted when they were deciding where to put the bar in the building.

In reaching its decision the Panel 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 Panel are mindful that the Applicant is an experienced operator with other similar venues in the city centre. It was clear from the Application and at the hearing itself that extensive work had been done to ensure that the venue would not affect residents. The Applicant had consulted with residents prior to the submission of the application and had listened to their concerns. In view of the requirement that the Panel must consider the location of the premise, noting that there are residents close by the Panel considered their statement of Policy which states:

*7.25 Where its discretion is engaged, the licensing authority will ensure that due consideration is given to the proximity of licensed premises not only to local residents and businesses, but also in relation to other licensed premises, to ensure they are located in a position that does not adversely affect their ability to ensure the promotion of the licensing objectives. The potential impact on any local residents will be an important matter for consideration.*

and

*7.26 Where premises are in the direct vicinity of local residential properties, and where its discretion is engaged, the authority will give particular consideration to measures proposed in the application in relation to prevent nuisance, such as:*

- Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise*
- Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy)*
- Prevention of disturbance by people outside the premises (e.g. smoking areas)*
- Litter from the premises (This issue is considered particularly relevant in respect of late-night takeaways and smoking-related litter outside licensed premises)*
- Disturbance caused by deliveries associated with licensable activities, including waste collection.*

The Panel agreed that the Applicant had clearly considered 7.25 and 7.26 of Manchester City Council's Statement of Licensing Policy when making this application and had proposed conditions to address the points that had been outlined. They had tailored the conditions for the premises they intended to operate, taking into account the close proximity of residents.

The Panel gave consideration to the measures and conditions put forward and were satisfied that by placing those conditions on the licence the licensing objectives will be upheld. The Panel agreed from the evidence provided that insulated curtains and baffles were required as recommended by the acoustician and that Condition 37 should be amended to include "as recommended by a professional acoustic report". The Panel agreed with the Applicant's representative that the hours applied for were not excessive for this area of the City Centre. The Panel also took into account that there were no representations from any Responsible Authorities who were the experts in their fields.

For the reasons outlined above the Panel grant the application for a premises licence.

### **Decision**

To grant the premises licence with the attached conditions, noting that the acoustics condition was amended by the Panel

1. The premises shall operate a CCTV system that complies with the minimum requirements of the GMP Licensing Team.
2. The premises licence holder must ensure that: (i) Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits; (ii) The system records clear images enabling the identification of individuals; (iii) All recorded footage is securely retained for a minimum period of twenty-eight days; (iv) The CCTV system operates at all times the premises are open for licensable activities; (v) All equipment must have constant and accurate time and date generation; (vi) The CCTV system is fitted with security functions to prevent recordings being tampered with; (vii) There is at least one member of trained staff at the premises during opening hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with all relevant data protection legislation.
3. SIA registered door supervisors shall be employed at the premises in accordance with a risk assessment, to be carried out by the DPS.
4. When employed, all door supervisors on duty at the premises must correctly display their current SIA accreditation and be briefed on their responsibilities and relevant company operating procedures before they commence duty.
5. When employed, all door supervisors shall wear high visibility armbands.
6. When employed, a register of door supervisors shall be maintained at the premises and shall include: i. The SIA registration number of door staff on duty; ii. the identity of each member of door staff; iii. the dates and times the door staff are on duty.
7. At all times that the premises are open to the public for licensable activities, at least 1 member of staff and 1 member of door staff (when employed) must have completed Action Counters Terrorism (ACT) Awareness e-learning training. In

- addition, a minimum of 1 on-duty manager and 1 on-duty security supervisor/manager must also have attended a Counter Terrorism (CT) Awareness session delivered by Counter Terrorism Policing North West (CTPNW) trained personnel as soon as reasonably practicable. If not completed, they must have registered to attend a course and be able to provide evidence of this if requested by a police officer or authorised officer of the licensing authority.
8. The Designated Premises Supervisor must have attended a CT Awareness training session delivered by CTPNW-trained personnel as soon as is reasonably practicable. In all cases, within 28 days of a new Designated Premises Supervisor being named on the licence, they must have registered to attend a course and be able to provide evidence of this if requested by a police officer or authorised officer of Manchester City Council.
  9. There must be a documented security assessment, which must incorporate counter terrorism measures for the premises. The assessment shall be routinely reviewed and must be reviewed following the elevation of the change of the national threat level. All reviews shall be documented.
  10. Within 28 days of the granting of the licence, the premises licence holder shall evaluate any risks identified through the security assessment and take prompt steps to eliminate them or to reduce the risk as far as is reasonably practicable. A documented record must be maintained of any remedial action implemented and made available upon request to any police officer or an authorised officer of Manchester City Council.
  11. The premises must have a documented security plan, which sets out counter measures to be implemented in response to a terrorist attack that incorporates the principles of 'Guide', 'Shelter' and 'Communicate' as appropriate in conjunction with relevant National Counter Terrorism Security Office (NACTSO) / Centre for the Protection of National Infrastructure (CPNI) guidance, and the purposes of those procedures and the necessity of following them must be understood by those carrying them out:
    - Guide – Direct people towards the most appropriate location (in vacuation, evacuation, hide).
    - Shelter – Understand how your place or space might be able to lock-down and shelter people within it for several hours.
    - Communicate – Have a means of communicating effectively and promptly with users of your place and have staff capable of giving clear instructions. Also have the capability of integrating with any response or rescue operation by providing information such as building plans
  12. Open containers of alcohol shall not be removed from the building.
  13. All staff authorised to sell alcohol shall be trained in: (i) Relevant age restrictions in respect of products (ii) Prevention of underage sales (iii) Prevention of proxy sales (iv) Maintenance of the refusals log (v) Recognising signs of drunkenness and (vi) How overservice of alcohol impacts on the four objectives of the Licensing Act 2003 (vii) How to refuse service (viii) The premises' duty of care policy, understanding and dealing with situations involving vulnerable people, and incidents of harassment; and how to report issues of modern slavery and trafficking (ix) Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services (x) The conditions in force under this licence.

14. This training shall be documented and repeated at 6 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of Manchester City Council.
15. A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within a reasonable time of a request by an officer of a Responsible Authority.
16. The premises licence holder shall ensure that at all times when licensable activities are taking place, there is an appropriate number of competent person(s) able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment.
17. Regular safety checks shall be carried out by staff.
18. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
19. Any and all of the following incidents must be noted including pertinent details and, as appropriate, reported promptly so that investigations can be made and action taken:
  - a. alleged crimes reported to the venue or by the venue to the police
  - b. ejections of patrons
  - c. complaints received
  - d. incidents of disorder
  - e. seizures of drugs, offensive weapons, fraudulent ID or other items
  - f. faults in the CCTV system, searching equipment or scanning equipment
  - g. visit by a responsible authority or emergency service
20. Incident logs (which may be kept electronically) must be kept at the premises for at least 6 months and must be made available on request to the police or an authorised officer of the licensing authority.
21. The premises maintain public liability insurance.
22. The premises shall have a documented Duty of Care policy for managing intoxicated and vulnerable customers and dealing with incidents of harassment at the premises. The policy shall also include provision for persons refused entry to the premises who are also considered vulnerable by staff.
23. Noise from the premises shall not be such as to cause a noise nuisance to occupants of nearby premises.
24. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
25. There shall be no noise or odours caused by the kitchen extraction equipment that gives rise to a nuisance.
26. The exterior of the building shall be cleared of litter at regular intervals.
27. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
28. All external doors and windows must be kept shut after 21:00, save for normal access and egress.
29. A Dispersal and Smoking Policy will be implemented and adhered to (see attached).
30. Customers shall only be permitted to smoke on Liverpool Road.
31. The emptying of bins into skips will take place internally at all times.

32. Refuse collections will not take place between 8pm and 8am.
33. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
34. Deliveries to the premises will not take place between 8pm and 8am.
35. Delivery drivers will be requested to park for the purposes of making deliveries on Liverpool Road at the junction with Byrom Street. Delivery drivers will be instructed not to use Tonman Street for the purpose of making deliveries.
36. No entry shall be permitted to the licensed area after 23:00 on a Friday and Saturday.
37. The frontage of the licensed premises which faces Tonman Street shall be acoustically attenuated as recommended by a professional acoustic report such as to ensure that noise does not escape so as to cause a nuisance to occupants of nearby noise sensitive premises.
38. The only access and egress point to/from the licensed area for persons who are not working elsewhere in the building in which the licensed area is located shall be on Liverpool Road.
39. All windows and doors on the Tonman Street frontage shall be closed no later than 8pm daily.
40. Staff shall not be permitted to access or egress the premises via any door on Tonman Street after 8pm daily.
41. The maximum capacity of the licensed area at any one time shall be 140 persons, excluding staff.
42. The Challenge 25 scheme must 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 EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
43. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation.
44. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.
45. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.