

## Licensing Sub Committee Hearing Panel

### Minutes of the meeting held on Tuesday, 28 May 2024

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

**Councillors:** Evans and Judge

**LCHP/24/31. Urgent Business - Temporary Event Notice - The Lounge, 31 Withy Grove, Manchester, M4 2BS**

The Hearing Panel were informed that the application had been withdrawn by the applicant prior to the hearing and therefore no decision was necessary.

**LCHP/24/32. Review of a Premises Licence - Napoleons, 35 Bloom Street, Manchester, M1 3LY**

The Hearing Panel considered a report of the Head of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties submitted and the oral representations of the parties who attended as well as the relevant legislation.

Greater Manchester Police addressed the Hearing Panel, noting that they had applied for a standard review under Section 51 of the Licensing Act 2003 on the grounds of the premises not promoting the prevention of crime and disorder licensing objective. Immigration Enforcement officers had attended the premises to conduct a compliance check on 29 February 2024, alongside the Licensing Out of Hours team. Immigration officers arrested five members of staff for immigration offences, including working in breach, illegal entrant, and breach of bail.

The next day, GMP and LOOH visited the premises again to check that they were complying with the conditions attached to their licence, as they had been made aware that the CCTV system had not been in operation on the day arrests were made. GMP found that only one member of staff could speak English and asked them who was in charge at the premises. They stated that they were not in charge but could not identify anyone else who was. The member of staff informed GMP that the DPS was not present, and no personal licence holder was on site.

GMP asked to be shown the CCTV and were taken to where it was kept, with the staff member informing GMP that they did not know how to work the system, nor did any of the other staff on site. GMP inspected the CCTV system and it appeared to be switched off and the monitor was blank. A member of the security team attempted to get the system operating but was unsuccessful. GMP then noted that the written notice of authorisation was dated 2021 and several of the staff working there at the time of the visit were not included on the notice.

GMP also noted that customers were leaving the karaoke booths and walking down to the basement to purchase drinks even though the conditions of the licence state that there should be waiter or waitress service only to karaoke customers, so that was a breach of conditions.

The DPS had been spoken to on the phone, confirming that she had been made aware of the faulty CCTV the day before, but they had not had time to fix that before opening again. The DPS was also made aware of the issues with the out-of-date authorisation and lack of waiter/waitress service to karaoke booths. GMP served a Closure Notice under s.19 of the Criminal Justice and Police Act 2001 due to unlicensed use of the premises, namely the lack of CCTV. A copy was left at the premises and GMP explained how to rectify the breaches. GMP also left their contact details, advising that when the breaches had been rectified, they would reattend the premises to cancel the closure notice.

On 5 March 2024, GMP returned to the premises with LOOH after the DPS had informed them that a new CCTV system had been installed. This was shown to GMP, with historic footage able to be reviewed and assurances given regarding retraining for staff members. The DPS was therefore issued with a Cancellation of the Closure Notice under s.19 (7) of the Criminal Justice and Police Act 2001.

As well as the crimes uncovered at the premises, breaches of license conditions were also discovered that led to the original closure notice. Paragraph 11.27 of the Section 182 guidance states that there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. This includes employing persons who are disqualified from that work by reason of their immigration status in the UK. The operators had been issued with a referral notice and subsequently with a civil penalty.

Following their application for the review, GMP had submitted further evidence in the form of contact sheets from visits dating back to 2021. They showed a pattern of breaches of the licensing conditions and GMP having to spoon-feed the DPS on how to run the venue.

Licensing Out of Hours addressed the Hearing Panel, noting their support for GMP's review application. They believed the Premises Licence Holder to have shown disregard to the Licensing Objectives through their failure to adhere to their Licence conditions. Staff were reluctant to present themselves as being in charge. LOOH had noted the same issues on several occasions.

The panel sought clarity on if there had been any change in operation following the visits of LOOH in February, March, and May. LOOH stated that they had witnessed the same issues on all visits. No staff member would come forward to say they were in charge or identify who was. They had witnessed fire exits being blocked, karaoke booths not being managed and staff members not competent in operating the CCTV system.

The representative of Immigration Enforcement at the Home Office addressed the Hearing Panel, stating that they had completed a visit to the premises on 29 February 2024. Under section 179 of the Licensing Act 2003, they entered the premises and went down the stairs to the restaurant on the ground floor. Two staff members were behind the counter, a male and female. The female staff member identified the male as in charge, although the male denied that. Numerous workers were in the kitchen and one person was amongst those later questioned due to wearing a uniform with

the business logo on it, however she was cleared and left the premises. One person is believed to have evaded immigration as she was seen heading upstairs but not seen again during the visit. Another staff member locked themselves in the toilet, eventually coming out after taking off their apron and stuffing it behind the toilet. All staff were interviewed by officers during the visit. After checks, some staff members came back as having no right to work in the UK and some in breach of their visa conditions. The premises had been served with a referral notice and subsequently with a civil penalty notice containing a £90,000 fine.

The Premises Licence Holder's agent queried what the options were for challenging the civil penalty notice. The Home Office noted that it was a different team who dealt with challenges but accepted that the PLH would have the right to object until 25 June 2024.

GMP queried if the Home Office had completed a subsequent visit. It was confirmed that they had on 17 May 2024. On this visit, a worker had been identified as one who had been awaiting the outcome of an asylum claim. That had been dealt with and the staff member had no right to be in the UK, for which another civil penalty notice had been submitted but no decision had been made on that.

The agent for a neighbouring business supporting the review addressed the Hearing Panel, stating there were ongoing issues with the premises leaving obstructions in the shared yard, blocking fire exits and public highways. They have issues with the premises safety and hygiene practices, with images provided showing overflowing bins that were said to have attracted vermin, which was a particular issue in the summer. The premises had also installed a generator that was causing noise emanation for around five months, however the agent noted that this had been removed in April 2024.

The panel queried if the issues stated had been raised with the PLH. The agent confirmed that they had, with a civil dispute ongoing in court.

The PLH and their agent were invited to make a statement. Their agent noted that a witness statement of the PLH had been provided and that set out much of the case. The agent noted there were three different issues raised that they would deal with individually. They were alleged immigration offences, regulatory offences, and other matters.

In dealing with other matters, some of those raised by the neighbouring business, they noted that they did not relate to the Licensing Objectives and urged the panel to disregard what they had heard. The agent stated that the PLH denied what was alleged by the business.

In terms of regulatory matters raised, breaches of licence conditions, the PLH took this seriously according to their agent. However, it was felt that the breaches alone would not have brought a review by GMP. The PLH had still dealt with the matters brought to their attention. The generator causing noise was no longer installed. The excess waste had been cleared and the area cleaned, with a pest control team confirming there were no issues. Fire escapes were no longer blocked, with the importance of this reiterated to staff. The CCTV had been replaced with a new

system, and staff trained on how to use this. Supervisors had been told that they must identify themselves as in charge going forward. It was stated that this was not happening due to staff feeling anxious and the language barrier that some staff have. The press also attended with the Home Office and staff were fearful of this and less willing to identify themselves. For the PLH, the biggest issue was the language barrier regarding breaches. They sat the personal licence holder exam in Mandarin and not in English, which is permitted under the Licensing Act 2003. The agent noted that the closure notices issued to the premises had been lifted due to any identified breaches being dealt with. The agent asked the Committee to note that the breaches had been explained, resolved, and would not happen again.

In relation to employing illegal workers, the PLH denied the allegations. The agent felt that the review was happening prematurely as the PLH had not been able to respond to the civil penalty notice. They stated that revocation of the licence would be disproportionate as nothing was yet proved. A warning could be issued whilst the outcome was awaited, and another review could be brought following that outcome. They noted that the Section 182 guidance stated that a panel should not judge the guilt or innocence of the premises but should base any decision on the licensing objectives. The agent felt that it could not yet be shown that the prevention of crime and disorder objective was being undermined. The PLH understood they were now under the spotlight and that they must uphold the four licensing objectives, particularly in relation to crime and disorder. The agent felt that if the offences were not proven, revocation would not be proportionate.

The premises asked to continue to trade with additional conditions. An external consultant would come to the premises, within three weeks, to provide extra training for staff. A record book would be kept to provide the details of all staff members. Back of house and staff only areas would be restricted to those employed at the premises or those with a service need to enter them.

Under questioning from GMP, the PLH stated their belief that the additional conditions offered would provide a solution to the issues raised. The PLH had attempted to book an external consultant but had struggled to find someone who could provide training in both English and Mandarin. The record book and signage about access restrictions were both already in place, although GMP disputed that they were at their last visit. The CCTV system had been fully replaced and staff have been trained to use the system. It was offered to GMP at the last visit for staff to show that they could use the system, but they were told that was not necessary. GMP noted that on that visit, before the PLH arrived, they had been there for an hour with staff stating that they could not use the system.

From questions by LOOH, the PLH noted that on the 1 March 2024 visit, the CCTV had been broken. Staff had been scared to identify themselves as being in charge. At first, the PLH stated that they had reviewed their Premises Licence in 2023 but then stated that it had been after some of the visits of Responsible Authorities in 2024.

In summing up, the PLH's agent stated that they hoped the Committee would not consider the breaches of the licence as an intentional disregard. They stated that the language barrier had caused issues and the PLH had always responded to issues when raised. An external consultant had been booked to come and provide extra

training. The PLH had not yet had the opportunity to respond to the alleged immigration breaches, which may clear them of any wrongdoing. They felt revocation would therefore not be proportionate.

The agent for a neighbouring business and the Home Office had nothing to add when invited to sum up.

LOOH summed up by stating that staff had consistently not been able to identify who was in charge. There had been occasions where there was no staff on floors where customers were consuming alcohol. LOOH had witnessed continuing breaches on each of their visits. They felt the PLH had shown disregard to the Licensing Act 2003 and the licensing objectives. The lack of management raised concerns and LOOH had lost faith in the PLH. They supported GMP in this review.

GMP summed up by stating that paragraph 11.27 of the Section 182 guidance notes that criminal activity should be taken seriously, with a lack of a right to work meeting that. GMP felt it difficult to see how the PLH could be trusted to continue. Following a meeting on 1 May, GMP had seen no change in the operation of the premises. GMP felt the only option available was revocation.

In reaching its decision, the Panel has 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 as well as the licensing objectives. The panel considered all options available to them. They were:

- a) to modify the conditions of the licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence.

In considering the evidence before the panel, they noted that there appeared to be a lack of staff training, particularly in relation to CCTV. There was a lack of management, with staff failing to identify who was in charge. They felt the premises to be ran reactively, simply responding to issues as they were raised by Responsible Authorities. The panel accepted that there were continuing breaches of the licence. The panel were satisfied that they could not go behind the decision to issue a Civil Penalty Notice in relation to the immigration breaches. The hearing panel deemed the immigration matters to be the most serious issues raised at the hearing. The hearing panel concluded because of the blatant disregard for not complying with immigration law, the licensing act and upholding the licensing objectives, the hearing panel conclude they will continue to undermine the Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance. Therefore, revocation of the licence is appropriate and necessary.

## **Decision**

To revoke the Premises Licence.

**LCHP/24/33. Application for a New Premises Licence - Sett174 Art Cafe, 174 Burton Road, Manchester, M20 1LH**

The Hearing Panel considered a report of the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties submitted and the oral representations of the parties who attended as well as the relevant legislation.

The applicant addressed the Hearing Panel, stating that they had opened their business in 2018, and were continuing to broaden their offer. The applicant had engaged with the local community and had never received any complaints relating to the Licensing Objectives. They accepted complaints had been received from Temporary Event Notices held at the premises, but they had worked with LOOH to create conditions on the licence relating to noise emanation that were before the Committee.

From questions, the applicant noted that complaints had related to the rear external area that had been used for a smoking area. They had amended their application so that this area would close by 9.30pm.

Two ward Councillors attended the hearing. They were happy with the application as amended, stating the applicant had gone further in amending than expected.

The applicant had nothing to add when invited to sum up.

In reaching its decision, the Panel has 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 as well as the licensing objectives.

**Decision**

To grant the application subject to the conditions agreed with Licensing Out of Hours and Trading Standards.

**LCHP/24/34. Application for a New Premises Licence - 8 Road Manchester, 359 Deansgate, Manchester, M3 4LG**

The Hearing Panel considered a report of the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties submitted and the oral representations of the parties who attended as well as the relevant legislation.

The applicant addressed the Hearing Panel, stating that their application was for a small convenience store for Chinese products. They noted that there was a Chinese community in this area but had no convenience store to serve their needs. They would serve a small percentage of their goods as alcohol. The premises would close at 9pm. The premises has CCTV installed. Any alcohol sold would be to take away, with none for consumption on-site.

In reaching its decision, the Panel has 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 as well as the licensing objectives.

### **Decision**

To grant the application subject to the conditions agreed with Licensing Out of Hours.

**LCHP/24/35.      Application for a New Premises Licence - Bloomsbury,  
Former Cycle Hub, Oxford Road Station, Oxford Road Station  
Approach, Manchester, M1 6FU**

The Hearing Panel were informed that all representations had been agreed and withdrawn and therefore no decision was necessary.