

Licensing Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 16 September 2024

Present: Councillor Connolly – in the Chair

Councillors: Connolly and Hilal

LCHP/24/58. Application for a Premises Licence Variation - Black Milk, 88 Oldham Street, M4 1LF

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing concerning an application for a Premises Licence Variation. The Hearing Panel considered the written papers of the parties submitted and the oral representations of the parties who attended, as well as the relevant legislation.

The applicants addressed the Hearing Panel and stated that Black Milk was created as a safe haven in the city centre, to be different from the drink led establishments in the Northern Quarter and that one of the applicants had autistic siblings and Black Milk would be an appropriate place for them. The responsible authorities had made agreements with Black Milk on the licensing objectives and now removed their representations and suggested a multi-point plan for the premises. In recent years, Covid and the following years had affected the business badly and this was now in debt. The business had worked out that they could create £50,000 revenue if the variation was granted. This would clear the debt, create jobs and clear loans. The premises needed this variation in order to survive in the hospitality business. There had been no crime and disorder associated with the venue and the applicants were aware that noise appeared to be the main concern with objectors. In terms of outdoor noise, the premises were already bringing outdoor seating to a close at 22:00 hours, smoking seemed likely to be banned outside venues in recent Government proposals and, therefore, any noise emanating from outside the premises was not as a result of their operations. As for internal noise, the premises had had visits from the Licensing Out Of Hours (LOOH) Team due to complaints. The premises now runs with a small, Bluetooth speaker, decibel limited with the bass frequencies minimised. The responsible authorities had attended and offered no concerns regarding this sound set up. The premises had caused one noise incident for a commercial take-over event at the venue, they had learned from this incident and would not repeat any such incidents in future. All music would be at background level. The business does need to be popular but this needs to be mitigated against the impact on residents.

A resident objector attended and put questions to the applicants.

The applicants responded to questions by stating that:

- One of them was a promotor at a Manchester nightclub for 3 to 4 years and had experience in sound levels, hence they had deployed the use of a foam pad to cushion bass vibrations from the sound system. Furthermore, rubber stoppers had been placed on the feet of the refrigeration units as these can also create a low-frequency hum.
- The premises is a family friendly environment and staff had been trained in inappropriate sound levels

- There would be no amplified music for any future events nor any upgrade to the current sound system
- The business would speak to residents individually and they were aware of both residents above at the front and rear of the building. Speakers had been faced away from the residents' areas
- The staff, customers and premises as a whole were important to the applicants, after 7 to 8 years of being on site, the only problems have been to do with drunk people and homeless people, neither of whom were patrons of Black Milk in either case. The applicants had been speaking to door supervisor firms and would consider employing some door staff for weekends after 22:00 hours. The applicants wanted to run a risk assessment and react accordingly with regard to operating with or without door staff

In responding to questions from the Hearing Panel, the applicants stated that:

- They had been speaking to a member of City Co and looking to add acoustic treatment to the premises but money was an issue
- Staff take approximately half an hour to clean up and use headphones if they want to have music to entertain themselves with
- Staff parties are only held when the premises finish earlier
- In terms of risk assessment for potential door staff, one of the operators had experience in the night-time economy and event management and one of the staff members was SIA registered
- The applicants also liaise with firms such as City Co and responsible authorities
- GMP had made no suggestion of the premises operating with door staff

The resident objector addressed the Hearing Panel and stated that they would like security at the premises to be assessed independently. The objector's main issues had been with music and noise breaking out from the premises. They had spoken to LOOH around 30 to 40 times about the issue and also raised concerns around staff partying and taking drugs, although there had been some improvements. The objector expressed that they had not spoken to other tenants of the building, just the applicants and stated that they had been met with hostility. Videos had been shared of the objector and they stated that this was after they had been verbally harassed by staff at Black Milk. Some staff members were not well handled by the applicants and it was alleged that some were drinking on their shift and taking drugs. The premises would be better operated with the involvement of a neutral party, i.e. a door supervision firm. Other residents had complained and the director had been unreasonable and didn't learn from previous situations. In their final comments, the objector stated that the bass levels had been re-introduced to harass the residents.

The applicants did not have any questions for the resident objector.

In responding to questions from the Hearing Panel, the objector stated that:

- Music and noise nuisance/harassment from noise were the ongoing issues

In summing up, the objector stated that another bar could end up on the site if this licence was granted. The new licence would set a precedent for a 01:00 hours licence and associated issues if the Black Milk business folded. The residents would then be stuck with this as the norm. Noise harassment had been the main issues and

the applicants were not taking enough steps to counter this. If the licence were granted then this would create further harassment.

The applicants summed up, firstly by addressing the objector's concern over a bar moving into the premises by stating that the business had won an application process to open on the site as a safe haven in the city centre and that a bar type establishment would not be allowed by the landlord. In summing up they stated that they were looking for late night refreshment and alcohol like lots of others in the Northern Quarter. They wanted to offer something different to the general fried chicken options that dominate the late night food trade and they had the involvement of Sacha Lord. All allegations were hearsay and the responsible authorities had made agreements by working with the premises.

Decision

To grant the variation of the licence

Opening and Closing times:

7.30am to 1.00am Monday to Sunday

Sale of Alcohol:

9.00am to 12.30am Monday to Sunday

Late night Refreshment Monday to Sunday 11pm to 1.00am

Reasons

The Committee will firstly focus on four main considerations:

What, Where, When and How as per their Statement of Licensing Policy.

What - This is a variation application for a licensed café which focuses on desserts.

Where - The café is situated in the Northern Quarter, a vibrant area of the city centre which is a mixed-use area made up of businesses, licensed premises and residential premises.

When - The increased hours applied for relate to the sale of alcohol until 12.30am and late-night refreshment until 1.00am (closing at 1.00am). Further increased opening hours from 7.30am. (The sale of alcohol is a small proportion of their sales.)

There is no application for regulated entertainment.

How - Operational standards of management, licence conditions, and the ability of these to mitigate identified risks. The Committee has fully reviewed the existing conditions on the licence and are satisfied that no further conditions are required to uphold the licensing objectives.

Secondly, when considering an application, the expert on public nuisance is normally the Licensing and Out of Hours team. The Section 182 Guidance states:

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."

The Committee noted LOOH's haven't put a representation in against this variation despite the resident advising the Committee they had been called out 30/40 times to the premises. The Committee accept the evidence given by the Applicants that Licensing and Out of Hours do not take issue with how they operate.

Further the Committee noted there hasn't been any issues with this premises involving GMP and GMP are agreeable to this application without any further conditions required.

Thirdly, the Committee are satisfied the existing conditions regarding SIA door staff is appropriate and proportionate having regard to the nature of the operation. When the premises carries out a risk assessment and decides SIA door staff are required, then it will be a matter for them to decide on the security company, they employ.

Fourthly, the Committee must balance the competing needs of businesses and residents but make their decisions based on 'real evidence'. The Committee conclude there isn't sufficient

evidence to show the premises aren't upholding the prevention of public nuisance licensing objective.

Finally, from listening to the parties during the hearing and the written representations it is clear there has been a break down in the relationship between the resident and the Applicants. Allegations have been made by both parties. The Committee hope matters can be resolved between the parties and they can start working together.

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The Hearing Panel were informed that all remaining representations had been agreed. The Committee was invited to grant the variation application.

Decision

To grant the variation in the following terms:

Remove Condition 1 of Annex 2 in relation to capacity

Additional conditions to be attached to the operating schedule:

1. Management/staff to carry out hourly noise breakout checks during operational hours and documented.
2. If a member of management or door staff witness a customer illegally parking in the immediate vicinity in front of the premises, they shall be refused entry until they have moved their car.

Condition 54 of Annex 2 (which currently reads "A dispersal and smoking policy will be implemented and adhered to (see attached)") is replaced instead with the following:

Smoking:

1. Whilst the premises is open and there is a queue, the designated smoking area shall be located on the other side of the road, away from the entrance to the premises.
2. When there is no queue, the designated smoking area shall be located immediately outside the premises, in the location where the queue usually forms.
3. The areas will be clearly delineated and will be monitored at all times by at least 1 SIA registered security.
4. The smoking area will close 30 minutes prior to the premises closing and if patrons leave the premises to smoke after this time, they will not be allowed to re-enter the premises.
5. The areas shall be covered by the CCTV system which will be installed at the premises.
6. The area will be cleaned at regular intervals and at the end of any trading period.

7. Suitable receptacles shall be provided for smokers to dispose of cigarette butts.
8. Customers leaving the premises to smoke will be stamped to identify them. However, smokers re-entering the premises shall be subject to searches in accordance with any search policy in force at the premises.

Dispersal:

1. At the end of the evening management and staff will assist with the orderly and gradual dispersal of patrons.
2. Staff Members (including SIA registered security, when employed) will advise patrons to leave the premises quickly and quietly out of respect for neighbours.
3. Notices will be displayed requesting our customers to leave quietly and in an orderly manner out of consideration to neighbours and their attention will be drawn to these notices by members of staff.
4. Management and staff will ensure the removal of all bottles and drinking receptacles from any patron before exiting the premises (this does not apply in the case of alcohol sold in sealed containers for the purpose of consumption off the premises).
5. Management and staff will actively discourage our customers from assembling outside the premises at the end of the evening.
6. A suitable member of staff or security (when employed) will be visible at each public entrance/exit to control the dispersal, to remind people to leave quietly, and to prevent patrons from re-entering the premises.
7. Security and management to use their best endeavours to ensure that traffic is managed outside the venue during its operational period. Cars causing an obstruction shall be asked to move on. A dedicated traffic marshal shall be employed at peak trading hours to ensure that vehicles don't cause an obstruction on the road and pavement outside, to avoid congestion. The traffic marshal shall wear a high visibility vest and a body worn camera.
8. A minimum of 5 SIA registered security will remain on duty outside the premises for a minimum 30 minutes after the premises closes or until all patrons have dispersed and the area outside the premises is clear. They shall wear high visibility vests and at least one shall wear a body worn camera.
9. Management shall inspect the outside area at regular intervals to ensure compliance.
10. At the end of each evening, a member of management shall take a photo of the external area to demonstrate that it is clear of patrons and vehicles and those photos date stamped, compiled and sent on a weekly basis to the LOOH team and GMP's Licensing Team to demonstrate compliance.

The Committee heard from the parties that an agreement had been reached and that LOOH's now agreed for the condition regarding capacity to be removed from the licence and further conditions to be added. The Committee considered the application, and the additional conditions put forward and decide to grant the variation application.