

## **Licensing Sub Committee Hearing Panel**

### **Minutes of the meeting held on Thursday, 4 January 2024**

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

**Councillors:** Andrews and Riasat

#### **LCHP/24/1. Application for a New Premises Licence - Insomnia Cookies, 222 Wilmslow Road, Manchester, M14 6LF**

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 Chair invited the applicant to present their application to the Panel. The applicant's representative referred to the Statement of Licensing Policy 2023-2028 that had been approved at the meeting of the Council on 29 November 2023 and requested the Panel to confirm if the policy would be used in the consideration of the application.

The Panel's legal advisor informed the hearing that the Panel noted that the Statement of Licensing Policy 2023-2028 had been approved for publication by the Council however, the policy had not yet been formally published and for that reason the panel would consider the application in accordance with the guidance of the Statement of Licensing Policy 2021-2026.

The applicant's representative presented the application for a premises licence. The panel was advised that applicant currently operates two other premises within Manchester. The proposed premises will offer late night refreshment and sweet treat products. The premises will open from 10:00am to 4.00am Tuesday to Saturday and 10:00am to 1:00am Sunday to Monday. The premises licence will apply between 11pm and 4.00am. The premises will open on 8 January 2024. The premises licence will allow the sale of hot drinks and warm cookies. The premises will also sell cold drinks and ambient temperature cookies. The application submitted provided a demonstration of how the applicant proposed to meet the four licensing objectives. Delivery is available and would be provided by staff members using their own peddle cycle or car.

The applicant's submission was supported by statements from employees of Insomnia Cookies UK. A written statement submitted from an independent consultant who was engaged by the applicant for external and internal observations made in October 2023 of the two other premises operated by the applicant and the proposed new premises, including the areas surrounding the shop. The observations made had not identify any breaches of the licencing objectives.

In response to a question concerning the request for a 11:00am - 4:00am, it was stated that the applicant believes there is a demand for the products offered during this time of the day. Also, as a comparison, another premises adjacent to the location, provides hot food and are open 24hours.

At this point the Panel adjourned the meeting for a 10-minute break. The hearing resumed at 11:15am.

The Chair invited a spokesperson attending on behalf of Fallowfield Community Guardians Withington Civic Society to address the hearing.

The spokesperson stated that it is unreasonable and not appropriate to continue with the hearing and requested for the adjournment of the hearing until after the formal publication of the Statement of Licensing Policy 2023-2028.

In response the applicant's representative objected to the request on the basis that the relevant policy to consider the application would be the policy in effect at the time the application had been submitted.

The hearing was then adjourned, and the Panel then left the meeting room with the legal advisor and clerk to consider the request.

The Panel returned to the meeting room and the hearing resumed. The Chair advised those present that the request to adjourn the hearing had been refused.

The Panel's legal advisor informed the hearing that:

The Panel considered the test for an adjournment as set out under Regulation 12 of the Licensing Act 2003 (Hearings ) Regulations 2005, which states that "*...subject to regulation 13, an authority may adjourn a hearing to a specified date .....where it considers this to be necessary for its consideration of any representations or notice made by a party.*"

The Panel considered and determined that it was familiar with the area concerned and that the parties involved had addressed the nature of the location in representations and therefore, it could consider the representations of the parties and make a decision without an adjournment of the hearing being necessary.

The Chair then invited the responsible authorities present to make a statement.

The Greater Manchester Police representative stated that the representation made is based on the Statement of Licensing Policy 2023-2028. Based on the application made it was not possible to determine how the granting of a premises licence would result in crime and disorder, although other issues may arise. The representation was not withdrawn.

The LOOH representative referred to the residential nature of the area and the potential likelihood of noise and customers congregating. Reference was made to the Council's Statement of Licensing Policy 2021-2026, with reference to sections 7.26, 7.32 and 7.33.

In questioning the LOOH statement, the applicant's representative asked if amending the closing time to 3:00am from 4:00am would be acceptable to be the same as the licences for the other premises operated by the applicant.

The LOOH representative stated that amending the time to 3:00am would not result in the representation being withdrawn.

The spokesperson attending on behalf of Fallowfield Community Guardians Withington Civic Society stated that the impact of the night-time economy on the Fallowfield area has resulted in the area changing, with 50 licensed premises operating. Litter is a major issue, and an additional light night time premises operating will add to the problem. The large local student population has resulted in an increase in the problems in the area such as noise nuisance and anti-social behaviour. The applicant could operate their business until 11:00pm and this would be acceptable to local residents.

The Chair then invited all parties to sum up.

The LOOH representative referred to the proposed litter pick arrangements and the need for that to be sustained. Reference was also made to the use of flyposting to advertise the business.

The applicant's representative apologised for the incidence of flyposting and stated that the third party responsible would not be commissioned again. In summary the applicant's representative stated that it was accepted by the interested parties that the granting of a licence would not add to the ongoing issues in Fallowfield, and the business will operate based on demand. There is no evidence of public nuisance, noise or litter, based on the observations made of the other business premises within Manchester.

All parties left the meeting room and the Panel considered the application in private.

In deliberations, the Panel considered the content of the report, the oral representations of all parties, the legislation, the relevant guidance, and the Statement of Licensing Policy 2021-2026.

The Panel carefully considered the location and the particular problems in the area caused by and contributed to by licensed premises. However, the Panel also took into account the unique nature of the premises and the products sold i.e sweet treats only. The Panel therefore accepted that this type of venue selling this product would be unlikely to attract customers that were fuelled by alcohol. The Panel accepted that the venue is more likely to be attractive as an alternative venue for customers who will not be drinking alcohol and may prefer not to attend clubs and pubs where alcohol is sold. The Panel further noted that the Applicant is an experienced operator and has operated two premises in Manchester since August 2023, without any complaints or incidents. The Panel also heard that the premises has planning permission for 24 hours a day and could, in any event, open to sell ambient temperature cookies for the hours requested if a licence was not granted. The Panel took this into account and considered that there was no evidence that selling warm cookies and hot drinks during the hours applied for under the conditions set out and

in accordance with the method of operation set out by the Applicant which included detail about regular litter picks and use of employees own vehicles for deliveries would undermine the Licensing Objectives. The Panel therefore considered it appropriate to grant the licence on these terms.

### **Decision**

To grant the application for the hours applied for subject to the imposition of all the conditions put forward by the Applicant.

### **LCHP/24/2. Application for a New Premises Licence - Friendly Shopper, 10 Nigel Road, Manchester, M9 4PD**

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