

**Manchester City Council
Report for Resolution**

Report to: Licensing Sub-Committee Hearing Panel – 27 March 2020

Subject: Three Legs of Man, 402 Stretford Road, Manchester, M15 4AE
(Summary Review of Premises Licence, App ref: 245014)

Report of: Head of Planning, Building Control & Licensing

Summary

Review of the premises licence under s53C of the Licensing Act 2003.

Recommendations

That the Panel consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken.

Wards Affected: Hulme

Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
A highly skilled city: world class and home grown talent sustaining the city's economic success	An effective Licensing regime will enable growth in our City by supporting businesses who promote the Licensing Objectives.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives.
A liveable and low carbon city: a destination of choice to live, visit and work.	An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities suitable to the surrounding communities.

A connected city: world class infrastructure and connectivity to drive growth	
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Full details are in the body of the report, along with any implications for:

Equal Opportunities Policy
Risk Management
Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents (available for public inspection):

- Manchester City Council Statement of Licensing Policy 2016 - 2021
- Guidance issued under section 182 of the Licensing Act 2003, April 2018
- Licensing Act 2003 (Hearings) Regulations 2005
- Any further documentary submissions by any party to the hearing

1. Introduction

- 1.1 On 04/03/2020, an application was made by Greater Manchester Police under s53A of the Licensing Act 2003 for a Summary Review of the Premises Licence for Three Legs of Man, 402 Stretford Road, Manchester, M15 4AE in the Hulme ward of Manchester. A location map and photograph of the premises is attached at **Appendix 1**.
- 1.2 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast track licence review.
- 1.3 A 10 working-day public consultation exercise has been undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.
- 1.4 Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.
- 1.5 Following the review under section 53C, the licensing authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

2. The Application

- 2.1 A copy of the application is attached at **Appendix 2**.
- 2.2 The application for a summary review was submitted on the grounds that the premises are associated with serious crime.
- 2.3 The incident that triggered this summary review is as below:

On Saturday 29th February 2020 GMP received a telephone call from a male who had been present at the premises stating that there was a male at the premises with a firearm. The call then went on to say that the firearm had now been taken outside the premises.

Police attended the premises, when an officer asked a member of staff at the premises if there had been any issues in the last hour at the premises the member of staff said that there had not. After speaking to customers and conducting a search of a bar couch they recovered a quantity of what appeared to be bullets. A male sitting at this seat was arrested, officers then recovered a handgun, hidden under a brick on land adjacent to the premises.

The member of staff previously spoken to by officers was spoken to further at which point he gave the officer an account whereby he had seen a male inside the premises in possession of the bullets and the firearm and had told him to leave. The male did leave for a few minutes and then came back into the premises and was served a drink by this staff member.

No call had been made from staff at the premises to the police to alert them of the presence of a firearm and bullets at the premises and the male who had been in possession of them was allowed to remain on the premises and served a drink.

GMP are concerned as to the serious crime that has occurred at the premises and the lack of action to report it and that further serious incidents will go unreported at the premises and the safety of both customers and staff will be placed in jeopardy

2.4 Interim Steps pending the review

2.4.1 Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.

2.4.2 On 06/03/2020, a Licensing Sub-Committee Hearing Panel held a hearing to consider taking such interim steps and the decision of the Panel was to remove the Designated Premises Supervisor from the licence with immediate effect. The decision of the panel is included as **Appendix 3**.

2.4.3 The premises licence holder may make representations against the interim steps taken by the licensing authority. Under s53B of the Licensing Act 2003 the licensing authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.

2.4.4 At the time of preparing this Committee Report no representations have been received against the interim steps taken by the licensing authority. Please note that representations may be received at any time prior to the date of the review hearing.

2.4.5 On the date of the review hearing, the licensing authority is required to review any interim steps that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

3. Current Premises Licence

3.1 A copy of the current licence is attached at **Appendix 4**.

3.2 The premises licence holder is Punch Taverns Ltd who has held the licence since 10/06/2010.

3.1 The designated premises supervisor is Marek Bruchard who has held this position since 04/03/2020 (currently in consultation, due to be granted 21/03/2020).

3.2 The licensable activities permitted by the licence are:

- Sale of alcohol - Mon to Thurs 11am to 12 midnight, Fri to Sat 11am to 1am and Sun 12 midday to 11:30pm
- Live and Recorded music – Mon to Sat 11am to 12 midnight and Sun 12 midday to 11:30pm
- Late night refreshment – Mon to Sat 11pm to 11:30pm
- Opening Hours – Mon to Thurs 11am to 1am, Fri 11am to 2am, Sat 10am to 2am and Sun 12 midday to 00:30am

4. Relevant Representations

4.1 Representations may be made by any person or ‘responsible authority’ during the consultation period. To be ‘relevant’ and, therefore, able to be taken into account in determining the application, they must be relevant to one or more of the licensing objectives. Where representations are made by persons who are not a responsible authority, they must not be frivolous or vexatious.

4.2 A total of 5 relevant representations have been received in respect of this application (**Appendix 5**). The personal details of all members of the public have been redacted. Original copies of the representations will be available to the Panel at the hearing. Representations were received from the following persons / bodies:

Responsible Authorities:

- MCC Licensing and Out of Hours Compliance Team;

Other Persons:

- Hulme Ward Councillors;
- Residents (x 3).

Summary of the representation(s):

Party	Grounds of representation	Recommends
Licensing and Out of Hours Compliance	LOOH’s rep is based on all 4 of the licensing objectives and are supportive of the application to review the premises licence by GMP. LOOH have made a number of recommendations for conditions to be added to the licence in relation to policies, staff training and documented records.	Approve with conditions

Ward Councillors	Based on the grounds of Public Safety, the rep refers to serious hate crime committed by customers leaving the premises. Questions whether conditions on the licence are adequate and whether they are being upheld.	Unable to support the premises at this present time.
Residents	Based on Public Safety and Crime and Disorder, each of the reps refers to serious incidents from customers of the premises.	Revoke licence

5. **Additional information**

- 5.1 No additional information has been received from any party to the application.
- 5.2 The schedule of conditions is attached at **Appendix 6**.

6. **Key Policies and Considerations**

6.1 **Legal Considerations**

- 6.1.1 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005.

6.2 **New Information**

- 6.2.1 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.

6.3 **Hearsay Evidence**

- 6.3.1 The Panel may accept hearsay evidence and it will be a matter for the Panel to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard, but has heard or read about.

6.4 **The Secretary of State's Guidance to the Licensing Act 2003**

- 6.4.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring

consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

- 6.4.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.
- 6.4.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

6.5 **Manchester Statement of Licensing Policy**

- 6.5.1 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' its statement of licensing policy.
- 6.5.2 The Licensing Policy sets out the vision the licensing authority has for the regulation of licensed premises throughout Manchester and outlines the standards expected in order to ensure the promotion of the licensing objectives in the city. The Panel may depart from the policies should it consider doing so would benefit the promotion of the licensing objectives. Reasons are to be given for any such departure from the Policy.
- 6.5.3 There are a number of references in the Policy to the licensing authority's expectations of applicants. The licensing authority will not apply the Policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.
- 6.5.4 Relevant to this application, the Panel are recommended to have regard to the following sections of the Policy:

Section 6: What we aim to encourage

This section identifies certain types of venues and initiatives the licensing authority aims to encourage in order to promote an inclusive evening and night-time economy not simply focused on the consumption of alcohol. We aim to encourage:

- Premises that will extend the diversity of entertainment and attract a wider range of participants
- Live music, especially original material, which will provide a range of live performances and styles of music, provided that such entertainment does not undermine the licensing objectives
- National cultural institutions, global sports events and cultural festivals
- Non-drink-led premises, including restaurants, cafes, theatres and cinemas

- Communication and integration with local residents and businesses through licensees consulting with those in the local area prior to an application
- Participation in Pubwatches, off licence forums and other crime-reduction partnerships
- Engagement with the NITENET radio scheme and DISC secure information sharing platform by city centre venues through the Cityco Manchester Business Crime Reduction Partnership
- Designing out crime in the layout of the premises

Section 7: Local factors

This section sets out key issues that applicants are expected to take into account relevant to the individual characteristics of the premises and address any local factors relevant to their premises.

Having regard to this application, the Panel are recommended to have regard to the following Factors:

- Identified risk factors specific to the licensed premises
- Evidence of pre-existing problems in the area
- Consistency with relevant Council strategies
- The proximity of the premises to local residents and other local businesses, particularly in relation to the potential for nuisance

Section 8: Manchester's standards to promote the licensing objectives

This section identifies the standards that the licensing authority expects of licensed premises in Manchester. It is recognised that not all standards will be appropriate to apply in every situation to every premises. The degree to which standards would be appropriate is expected to be proportionate to the risk posed against the promotion of the licensing objectives having regard to the individual circumstances of the premises. The standards are not exhaustive and the licensing authority will have regard to any relevant issues raised in any representation that may fall outside them.

- MS1 Implement effective security measures at the premises
- MS2 Effective general management of the premises

7. Conclusion

7.1 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

7.2 In considering the matter, the Panel should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In

reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement.

- 7.3 The Panel must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, any relevant representations, and review the interim steps already taken (if any).
- 7.4 In making its final determination, the steps the Panel can take are:
- a) To modify the conditions of the premises licence
 - b) To exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) To remove the designated premises supervisor from the licence;
 - d) To suspend the licence for a period not exceeding 3 months; and
 - e) To revoke the premises licence.
- 7.5 The conditions of the licence, with the exception of mandatory conditions in Appendix 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.
- 7.6 All licensing determinations should be considered on the individual merits of the application.
- 7.7 The Panel's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 7.8 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 7.9 **The Panel is asked to determine what steps, as set out in 7.4 above, are appropriate for the promotion of the licensing objectives.**

Review of the interim steps

- 7.10 The Panel's determination of the review does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged.
- 7.11 To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the final review hearing. This is to be done immediately after the determination of the review under s53C. In reaching its decision, the panel must consider any relevant representations made.

7.12 The steps available to the Panel are:

- a) To modify the conditions of the licence;
- b) To exclude the sale of alcohol by retail from the scope of the licence;
- c) To remove the designated premises supervisor from the licence;
and
- d) To suspend the licence.

7.13 **Upon the determination of the licence review, the Panel is asked to review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.**