

**Manchester City Council**  
**Report for Resolution**

**Report to:** Licensing Sub Committee Hearing Panel – 11 May 2020

**Subject:** Northenden Social Club, 412 Palatine Road, Manchester, M22 4JT  
– Application ref: Club Premises Certificate variation 243217

**Report of:** Director of Planning, Building Control & Licensing

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**Summary**

Application for the variation of a club premises certificate which has attracted an objection.

**Recommendations**

That the Committee determine the application.

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**Wards Affected:** Northenden

<b>Manchester Strategy Outcomes</b>	<b>Summary of the contribution to the strategy</b>
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 Policy and implementation 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

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### **Financial Consequences – Revenue**

None

### **Financial Consequences – Capital**

None

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### **Contact Officers:**

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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 2017
- Any further documentary submissions by any party to the hearing

## **1. Introduction**

- 1.1 On 12/03/2020, an application for the variation of an existing club premises certificate under s34 of the Licensing Act 2003 was made in respect of Northenden Social Club, 412 Palatine Road, Manchester, M22 4JT in the Northenden ward of Manchester. A location map of the premises is attached at **Appendix 1**.
- 1.2 A 28-day public consultation exercise was 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, a notice published in a newspaper or similar circulating in the local area, and details of the application published on the Council's website.
- 1.3 Representations may be made for or against an application during the consultation period. To be 'relevant' and, therefore, able to be taken into account in determining the application, they must be about the likely effect of the grant of the club premises certificate on the promotion of the licensing objectives. Where representations are made by persons who are not a responsible authority, they must not be frivolous or vexatious.
- 1.4 A relevant representation has been received in respect of this application and so it must be determined by a Licensing Hearing Panel in accordance with the Council's Constitution.

## **2. Current club premises certificate**

- 2.1 The club premises certificate holder is Northenden Social Club and a copy of the current club premises certificate is attached at **Appendix 2**.

## **3. The Application**

- 3.1 A copy of the application is attached at **Appendix 3**.
- 3.2 The variation requests:
- to extend the hours for the sale of alcohol, regulated entertainment, and the opening hours. Further details are as below; and
  - to vary the layout of the premises in accordance with the deposited plan (a copy of the proposed and existing plans have been provided for the Committee).

Further details of the current and proposed hours are as below.

### Provision of regulated entertainment (live music, recorded music)

Current hours: Sun to Thurs 8pm to 11pm, Fri and Sat 8pm to midnight

Proposed hours: Sun to Thurs 8pm to midnight, Fri and Sat 8pm to 1.30am

### Supply of alcohol for consumption on the premises only

Current hours: Sun to Thurs noon to 11.30pm, Fri & Sat midday to half past midnight

Proposed hours: Sun to Thurs 9am to 11.30, Fri and Sat 9am to 1am

Opening hours

Current hours: Sun to Thurs noon to midnight, Fri and Sat noon to 1am

Proposed hours: Sun to Thurs 9am to half past midnight, Fri & Sat 9am to 2am

The application also requests a **seasonal** variation: from the start of permitted hours on New Year's Eve to the end of permitted hours on New Year's Day. (The current variation at New Year applies to sale of alcohol only, and not to regulated entertainment or opening times)

- 3.2.1 In accordance with the Live Music Act 2012 and Deregulation Act 2015, performances of Live Music and Recorded Music between the hours of 0800 and 2300 hours have been deregulated and so should not be regarded as licensable activities for the purposes of this application.
- 3.2.2 Any further details provided relating to any of the individual licensable activities are specified on the application form at **Appendix 3**.
- 3.3 **Activities unsuitable for children**
- 3.3.1 The applicant has not highlighted any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.
- 3.4 **Steps to promote the licensing objectives**
- 3.4.1 The applicant has not proposed any additional steps.
- 3.5 **Further documentation accompanying the application**
- 3.5.1 The applicant not submitted further documentation in support of the application.

**4. Relevant Representations**

- 4.1 One relevant representation was received in respect of the application (**Appendix 4**). The personal details of this member of the public have been redacted. An original copy of the representation will be available to the Committee at the hearing.

Responsible Authorities:

- None

Other Persons:

- Resident x 1

- 4.2 Summary of representation:

Party	Grounds of representation	Recommendations
Resident	The resident states that he has experienced numerous noise-related problems with the club, which appear to	Not stated

	<p>coincide with changes to the external and internal layout of the club, summarised as</p> <ul style="list-style-type: none"> <li>• repositioning of the bar</li> <li>• installation of full-length bi-fold doors and;</li> <li>• an extended external seating area</li> </ul> <p>Problems experienced have included excessive noise from music within and outside the premises (including the playing of external amplified music), and noise from patrons in the outside seating area, leading to disturbance including sleep disturbance.</p> <p>The resident considers that the proposed amendments are “wholly inappropriate for a residential area where the club is encircled by a number of residential dwellings” and will lead to an exacerbation of existing problems. The objection specifically refers to:</p> <ul style="list-style-type: none"> <li>• the seasonal variation, where the club will be permitted to operate over “a period of 40 hours non-stop” which demonstrates “a lack of concern for the wellbeing of their neighbours” and will increase the likelihood of crime and disorder; and that</li> <li>• “it appears that it is the club’s intention to operate from 9am to close every day, not just for special events”, again incompatible with a residential area and raises concern of an increase in crime and disorder.</li> </ul> <p>Based on previous experience the resident has “no confidence that the club would be operated in a way during these extended hours that would not cause a significant disturbance to its neighbours” and he is disappointed at having received “no prior communication from the club about the application”, which indicates a “lack of intention to work with its neighbours”</p>	
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4.3 No conditions have been proposed by the objector.

## 5. **Key Policies and Considerations**

### 5.1 **Legal Considerations**

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

### 5.2 **New Information**

5.2.1 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.

### 5.3 Hearsay Evidence

- 5.3.1 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.

### 5.4 The Secretary of State's Guidance to the Licensing Act 2003

- 5.4.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided for all parties involved in licensing. 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.
- 5.4.2 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.
- 5.4.3 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.

### 5.5 Manchester Statement of Licensing Policy

- 5.5.1 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.
- 5.5.2 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.
- 5.5.3 Section 4 of the Policy (Operation of the Policy) sets out how the Licensing Policy is intended to be used in practice for licence applications and licensed premises.
- 5.5.4 Relevant to this application and the grounds of the representations made, 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 when preparing their operating schedule and address any local factors relevant to their premises.

Having regard to the grounds of the representations made, the Panel are recommended to have regard to the following Factors:

- 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, and applicants are not obliged to include all standards in their operating schedule. 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.

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| MS2 | Effective general management of the premises  |
| MS8 | Prevent noise nuisance from the premises  |
| MS9 | Effectively manage exterior spaces (e.g. beer gardens, smoking areas, table and chair areas on the highway) |

## **6. Conclusion**

- 6.1 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.
- 6.2 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 or premises user as the case may be. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council’s licensing policy statement.
- 6.3 The Panel must take such of the steps set out below that it considers appropriate for the promotion of the licensing objectives:
- a) To grant the application subject to the conditions consistent with the operating schedule accompanying the application, which the Panel may modify to such extent as they consider appropriate;
  - b) To reject the whole or part of the application
- 6.4 The conditions consistent with the operating schedule 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 club premises certificate can take place.
- 6.5 However, conditions should not be imposed on a club premises certificate which are unrelated to the variation sought.
- 6.6 All licensing determinations should be considered on the individual merits of the application.
- 6.7 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.
- 6.8 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.
- 6.9 **The Panel is asked to determine the application.**