

REPRESENTATION: LICENSING & OUT OF HOURS COMPLIANCE



**MANCHESTER
CITY COUNCIL**

Licensing & Out of Hours Compliance Team

Evidence for Sub Committee Hearing

Name	Mr Matthew Stewart
Job Title	Neighbourhood Compliance Officer
Department	Licensing and Out of Hours Compliance Team
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Telephone Number	0161 234 1220

Premise Details

Application Ref No	255707
Name of Premises	N/A
Address	99a Lapwing Lane, Manchester M20 6UR

Representation

Outline your representation regarding the above application below. This representation should describe the likely effect of the grant of the licence/certificate on the licensing objectives and on the vicinity of the premises.

We, the Responsible Authority for Environmental Health, are submitting a representation following the application for a licence at 99a Lapwing Lane, Manchester M20 6UR to permit the:

- **Provision of late night refreshment**
- **Supply of alcohol**

We have assessed the likely impact of the grant of this application; taking into account a numbers of factors, including: the nature of the area in which the premises is located; the hours applied for, and the potential risk that the granting of this license could have on the 4 statutory licensing objectives, which the Licensing Act outlines as:

- *the prevention of crime and disorder*

- *public safety*
- *the prevention of public nuisance*
- *the protection of children from harm*

The grounds for representation are:

- *the prevention of crime and disorder*
- *the prevention of public nuisance*
- *the protection of children from harm*

The proposed operation of the premises is a café/bar designed to serve both the local community and passing trade. The premises is between a number of other businesses including licensed premises and will offer a takeaway service and outdoor seating area for the consumption of hot drinks before 23:00 and supply of alcohol. The premises is situated on Lapwing Lane within the Didsbury West Ward and in close proximity to residential dwellings; local businesses; a community park and a School.

We are concerned that if this application for a new premises licence is granted in its current format, it will lead to an increase in public nuisance, crime and disorder and impact adversely on residents, businesses and other licensed premises in the area as the applicant has not provided any clear steps to prevent and/or manage this if the licence was granted.

We believe that the grant of this licence would not promote the four statutory objectives as the steps provided by the applicant do not fall in line with the Revised Guidance issued under Section 182 of the Licensing Act 2003 which suggests conditions:

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve.*

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged.

If the Licensing Authority was to support the grant of this application based on the steps provided by the applicant the licence would be unclear to the Premises Licence Holder, Designated Premises Supervisor, Enforcement Officers, the Courts and local residents.

Therefore, we ask that the application is refused at this time.

References:

Licensing Act 2003, Available at <https://www.legislation.gov.uk/ukpga/2003>, (Accessed 18 February 2021)

Manchester City Council, *Statement of Licensing Policy 2016-2022*,
4 January 2016, Revised 12 July 2018.

Manchester City Council, *Licensing Act 2003 model conditions*, published 2015.

Home Office, *Revised Guidance issued under section 182 of the Licensing Act 2003*, published April 2018.

Recommendation: **Refuse**

REPRESENTATION: TRADING STANDARDS

ABOUT YOU

PLEASE NOTE: LICENSING OFFICERS, LICENSING COMMITTEE MEMBERS AND THE APPLICANT CAN VIEW THE INFORMATION PROVIDED ON THIS FORM

Your first name (required)	Your last name (required)
Bernard	McMenamin
Your address including postcode (required)	
Trading Standards Service 1 Hammerstone Road Manchester M18 8EQ	
Contact email address	Contact phone no
Bernard.McMenamin@manchester.gov.uk	0161 234 1540

ABOUT THE PREMISES

Application Ref No. (if known):
LPA 255707
Name of the Premises about which you would like to make a representation:
99a Lapwing Lane
Address of the Premises (including postcode if known):
99a Lapwing Lane, Manchester M20 6UT.

YOUR REPRESENTATION

Please outline your representation below and continue overleaf. This should be the likely effect of the grant of the licence / certificate on the licensing objectives on and in the vicinity of the premises in question. (Please continue on a separate sheet of paper if necessary)

The Trading Standards Team have assessed the likely impact of the granting of this application taking into account a number of factors, including the conditions offered and times applied for and any potential risk that the granting of this application could lead to issues which do not uphold the licensing objectives specifically the protection of children from harm.

The application is for a licence to sell alcohol. The premises are a coffee kiosk attached to a Post Office in a suburb of Manchester with a selected bar menu and table service when the Post Office is closed.

The Trading Standards Team have assessed the likely impact of the granting of this application taking into account a number of factors, including the conditions offered and times applied for and any potential risk that the granting of this application could lead to issues which do not uphold the licensing objectives specifically the prevention of children from harm.

Although the original application does reference staff training and a proof of age policy, a more specific structure will need implementing.

Giving consideration to the above application, the Trading Standards Team therefore recommend that the application is refused as the applicant demonstrates a lack of knowledge concerning the four licensing objectives, in particular protecting children from harm.

Supporting Evidence: In addition to your own written / oral testimony to the Licensing Sub-Committee, you may wish to provide evidence to support your representation. You will need to show how this evidence relates to the premises in question. Examples of supporting evidence include oral testimony, written testimony, noise records, video or photographic material, crime and disorder data, other statistical data, reports etc.)

REPRESENTATION: COUNCILLOR JOHN LEECH

From: John Leech <cllr.john.leech@manchester.gov.uk>

Sent: 15 February 2021 16:02

To: Premises Licensing <Premises.Licensing@manchester.gov.uk>

Cc: [REDACTED]

Subject: Re: Premises Licence (new) 255707/CT4: 99a Lapwing Lane, 99a Lapwing Lane, Manchester, M20 6UR, (Didsbury West ward)

Dear Licensing

In line with most other outdoor seating areas, the use of the tables and chairs outside should be restricted to 10pm, in order to protect local residents from noise and disturbance late at night. (Licensing objectives - prevention of disorder and public nuisance)

Conditions need to be included to stop customers from standing around drinking, and increasing the number of customers using the forecourt.

I would argue that the tables and chairs need to be removed at 10pm, so as to ensure that they do not continue to be used. On sales ought to be restricted to 9.30pm, so as to ensure that drinkers have enough time to drink up and leave by 10pm.

Thank you

John Leech

[REDACTED]

2 March 2021

**Manchester City Council
Licensing Unit
PO Box 532
Manchester
M60 2LA**

attention Chloe Tomlinson

Dear Chloe

**255707/LH6
99a Lapwing Lane, Manchester
Premises Licence (new)**

Thanks for your notification to WDRA of an application for new premises licence at 99 or 99A Lapwing Lane .

On behalf of WDRA I wish to make a representation.

PROPOSAL DETAIL

Although the application is less than clear as to precise arrangements the following is what appears to WDRA to be being requested:

We have not received from the Premises Licensing Unit any proposed site map, but rely upon the drawing kindly made available to us by Cllr Leech. The plan is the same as a publicly available plan submitted in support of a concurrent application for Planning consent (ref 129401)

Both diagrams show a red line surrounding the area where licensed activity is proposed. The area includes that area of forecourt/highway fronting 99 Lapwing Lane Post Office and extending as far from the building as the extent of the glass covered arcade.

Also included included within the licensed area is a section of existing intra building passageway, opening to Lapwing Lane via a locked door.

PRESENT USES OF PROPOSED LICENCED AREA

The Post Office frontage provides space for ATM customers to access the external cash machine and for other persons wishing to use the machine to queue in a manner which safeguards machine users' confidentiality. The importance of this has been increased during the present covid social distancing provisions. As well as the cash machine users, Post Office customers also presently queue on the frontage waiting their turn to safely

enter the Post Office.

PROPOSED USES OF INTENDED LICENSED AREA

A kiosk is shown situated in the internal passageway from which two staff would dispense coffee, alcoholic drinks and what is described as an “incredibly short and simple bar menu”. No further detail is provided.

The drawing shows tables and chairs on the PO frontage.

ISSUES ARISING FROM USE OF KIOSK SITUATED WITHIN INTERNAL ACCESS PASSAGEWAY

It remains unclear from the application document whether written consent for the proposed activity has been given by either the property owner or the leasehold Post Office tenant. Based on information so far provided it would appear that access to upper floor flats would now be solely via rear elevation staircase.

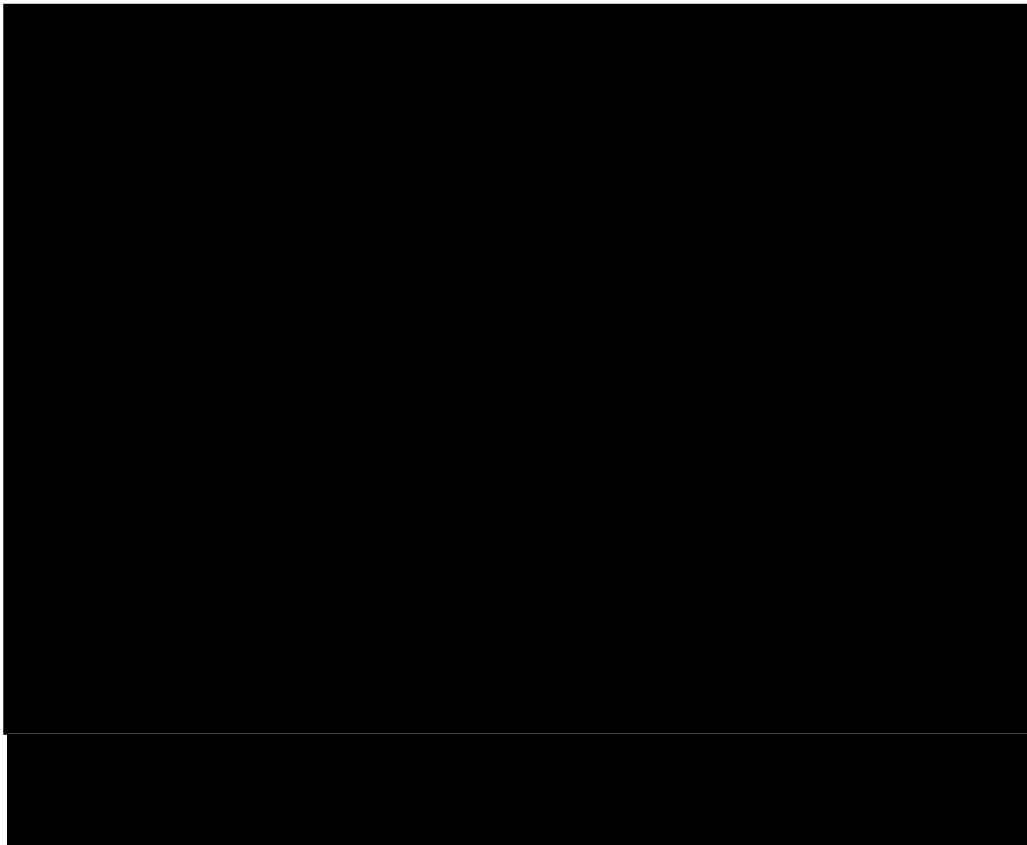
We note the application states that the passageway is:

“intended as an entryway to the flats above but is empty and disused.”

The application seeks to avoid any necessity to provide acoustic insulation by stating that the applicant and business associate [REDACTED] and suggesting that this “hugely reducing noise issues for neighbours”. WDRA take the view that a premises licence is a permanent permission which often outlasts [REDACTED]. Can it please be confirmed that what is here sought is a permanent premises licence and not one that would terminate [REDACTED]. We would suggest that need for acoustic insulation is best assessed by an acoustics professional rather than the opinion of the [REDACTED].

ISSUES ARISING FROM USE OF POST OFFICE FORECOURT

The diagram of the intended area of permitted licensable activities shows 6 tables and 12 chairs.



The application also includes the following statement:

“As so small it would be a primarily takeout operation nobody in premises except staff - 2 max) and utilise outdoor seating. ½ (sic) tables when the post office is open and then further tables when the post office is closed”.

When the above is read in conjunction with the diagram WDRA are not entirely clear as to what is intended. We think this means one table and two chairs during PO opening hours as follows:

0845 till 17.30	Mon-Tue,
08.45 till 18.00	Wed,
08.45 till 17.30	Thur,
09.00 till 17.30	Fri,
09.00 till 17.30	Sat,
Closed	Sun.

and 6 tables with 12 chairs after PO closing times

17.30 till 23.00	Mon,
17.30 till 23.00	Tues,
18.00 till 23.00	Wed,
17.30 till 00.00 midnight	Thu,
17.30 till 00.00 midnight	Fri,
13.30 till 00.00 midnight	Sat,
09.00 till 22.30	Sun.

There is a disparity between the application text where it is stated:

“Capacity seating limit of 8 small tables which reduces over-crowding that could lead to disorder”

and the drawing showing 6 tables and 12 chairs.

We have already noted that ATM access is required 24/7 and this would be compromised by the present proposal on grounds of personal confidentiality and social distancing requirements.

We recognise the proposal would entail removal of 5 tables and 10 chairs during all PO opening hours. However the proposed table configuration would also compromise access to upper floor flats.

The application fails to explain where the tables and chairs would be stored when not on the outside area. Much of the former passageway would be already occupied by the proposed kiosk.

WDRA's view is that the proposed table configuration would give rise to public nuisance and public safety issues as described above.

CUSTOMER and STAFF PUBLIC HEALTH ISSUES

The proposed licensed premises appear to have no facilities for washing hands by either customers or staff. There also appears to be no toilet provision for either staff or customers. There would seem to be no sink or hot water supply for washing crockery, glasses or cleaning and preparation of food.

Lack of toilet and hand-washing facilities would seem to be a recipe for public nuisance with customers tempted to relieve themselves down any back entry or doorway. WDRA take the view that lack of toilet and hand cleansing facilities would mean unacceptable risks to general health as well as an increased chance of catching and transmitting Covid 19.

DELIVERIES, PREPARATION and HYGIENIC STORAGE OF WET AND DRY STOCKS

No information is provided to address these matters. Unlimited times of deliveries may well cause nuisance. Preparation and storage of stocks are of fundamental importance for health of staff and customers. The present pandemic increases the need for care over these matters.

RECYCLING OF WASTE FOOD BOTTLES AND OTHER PACKAGING

The application states:

“Premises has waste collection contract with ‘Empty My Bins’ who collect refuse on a daily basis from adjacent alleyway. Staff to undertake litter pick within 2m radius of space to ensure post office happiness.”

WDRA remain to be convinced that the red lined business premises rather than the Post Office business has a current collection contract. The new business entity would require its own separate contract with a commercial bin collector. Consequently WDRA look forward to confirmation that provisions for recycling would be conducive the Licensing Objectives of preventing public nuisance and ensuring public safety.

The issue of discarded paper cups is a significant environmental and health issue. WDRA volunteers regularly clear such cups from a wide area around Lapwing Lane and Burton Rd. We find the applicant's offer to clear litter from a one metre strip to be less than adequate.

Under present covid regulations personal keep cups have been ruled out due to risk of spreading the virus. One unfortunate side effect of this is an increased risk of covid infection to all volunteers collecting disposable cups as infection can remain on these for a number of hours.

WDRA suggest the following may assist:

- a large notice displayed at the kiosk reminding customers of their duty to responsibly and hygienically dispose of their paper cup,
- a requirement that all disposable cups, plates and tissues prominently display name and address of the kiosk. The latter may discourage the dropping of cups and would also help to quantify the extent of the problem.

PLAYING OF RECORDED MUSIC OUTDOORS

By implication the application seeks consent for playing of recorded music outdoors until 23:00 every evening. WDRA wish to resist this on grounds of public nuisance. No other neighbouring restaurants or bars are permitted music played outdoors (although music may be permitted indoors).

We feel that permitting playing of outdoor recorded music here would set an unfortunate precedent.

CONCLUSIONS

WDRA wish to encourage new business enterprises wherever possible. We have considered this application in some detail. It is regrettably our conclusion that the application could not operate without breaching the licensing objectives of preventing public nuisance and ensuring public safety.

Unlike neighbouring pavement facilities the proposal is not an adjunct to any indoor licensed business. As a result the enterprise lacks any toilet and hand-washing facilities, any sink for washing in hot water of crockery and glassware or preparation and safe storage of food.

The application seems to assume that because [REDACTED]
[REDACTED] no acoustic insulation would be required.

WDRA wish to oppose grant of the application for the reasons here presented.

Kind regards

[REDACTED]

[REDACTED]

WDRA Planning Officer (acting)