

**Manchester City Council
Report for Resolution**

Report to: Licensing Sub-Committee Hearing Panel – 11 April 2022

Subject: Embassy Club, Embassy Club, Westbourne Grove, Harpurhey, Manchester, M9 4XJ (Summary Review of Premises Licence, App ref: 272258)

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: Harpurhey

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	

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 16/03/2022, an application was made by Greater Manchester Police under s53A of the Licensing Act 2003 for a Summary Review of the Premises Licence for Embassy Club, Embassy Club, Westbourne Grove, Harpurhey, Manchester, M9 4XJ in the Harpurhey 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 took place on 11th March 2022 when GMP received a 999 call stating that there was a person with a knife at the Embassy Club and that someone had been cut with. The two males responsible were allowed entry inside the premises even though they were initially refused entry by door staff for being aggressive.
- 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 18/03/2022, a Licensing Sub-Committee Hearing Panel held a hearing to consider taking such interim steps and the decision of the Panel was to suspend the Premises Licence pending a full Review hearing. The decision of the panel is included as **Appendix 3**.

Licensed to take place indoors only.

Seasonal variations and Non-standard Timings:

New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day British Summer Time commences: One additional hour following the terminal hour.

Recorded music

Standard timings

Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0000	0000	0000	0000	0000	0000	0000
Finish	2400	2400	2400	2400	2400	2400	2400

Licensed to take place indoors only.

Seasonal variations and Non-standard Timings:

None

Provision of late night refreshment

Standard timings

Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	2300	2300	2300	2300	2300	2300	Not applicable
Finish	0230	0230	0230	0230	0230	0230	

Licensed to take place indoors only.

Seasonal variations and Non-standard Timings:

New Year From 23:00 on New Years' Eve until 05:00 New Year's Day (or if there are no permitted hours for the sale of alcohol on New Year's Day until 00:30 on New Year's Day).

On the day British Summer Time commences: One additional hour following the terminal hour.

Hours premises are open to the public

Standard timings

Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1100	1100	1100	1100	1100	1100	1200
Finish	0230	0230	0230	0230	0230	0230	2300

Seasonal variations and Non-standard Timings:

New Year's Eve / New Year's Day:

Start: - the time the sale of alcohol is licensed to start by reference to the day of the week on which New Year's Eve falls.

Finish: -

If New Year's Day is on Monday to Saturday: 0230

If New Year's Day is on Sunday:2300

On the day British Summer Time commences: One additional hour following the terminal hour.

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 No relevant representations have been received in respect of this application

5. **Additional information**

5.1 Additional information has been received from Nathan Siddall, attached as **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:

- Evidence of pre-existing problems in the area
- Identified risk factors specific to the licensed premises
- Consistency with relevant Council strategies

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

MS6 Provide a Duty of Care for intoxicated or vulnerable customers and medical emergencies

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.**