

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 30 January 2023

Subject: Go Local, 210 Wilmslow Road, Manchester, M14 6LF – App ref: Premises Licence (new) 280605

Report of: Director of Planning, Building Control & Licensing

Summary

Application for the grant of a premises licence which has attracted objections.

Recommendations

That the Panel determine the application.

Wards Affected: Fallowfield

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 2017
- Licensing Act 2003 (Hearings) Regulations 2005
- Any further documentary submissions by any party to the hearing

1. Introduction

- 1.1 On 06/12/2022, an application for the grant of a Premises Licence under s17 of the Licensing Act 2003 was made in respect of Go Local, 210 Wilmslow Road, Manchester, M14 6LF in the Fallowfield ward of Manchester. A location map and photograph 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 premises licence 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 Relevant representations have 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. The Application

- 2.1 A copy of the application is attached at **Appendix 2**.
- 2.2 The applicant is Kwik E Mart MCR Limited.
- 2.3 The description of the premises given by the applicant is:

The premises will be a new convenience store where all types of convenience products will be sold including fresh & frozen food, toiletries, household, newspapers etc. Other services will also be offered to customers such as the ability to pay bills & collect/send packages. Alcohol is not the intended focus of the business there is an expectation that alcohol sales will have a limited impact on the area as local people are expected to on the whole purchase alcohol along with other products.

In terms of addressing the licensing objectives, this premises will be brand new and subject to significant investment which will involve the installation of high spec equipment such as CCTV, electronic refusals register and till prompts. In addition to that, in order to mitigate any risk from the sales of alcohol and its impact on the licensing objectives a number of robust conditions, which reflect the expected policies and procedures to be operated within the business, have been included as part of this application

- 2.4 The proposed designated premises supervisor is:

Nishant Ambalal Talpara

2.5 The licensable activities applied for:

Provision of late night refreshment:

Mon to Sun 11pm to midnight

The provision of late night refreshment will take place indoors.

The supply of alcohol for consumption off the premises only:

Mon to Sun 8am to midnight

Opening hours:

Mon to Sun 8am to midnight

2.5.1 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.

2.5.2 Any further details provided relating to any of the individual licensable activities are specified on the application form at **Appendix 2**.

2.6 Activities unsuitable for children

2.6.1 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.

2.7 Steps to promote the licensing objectives

2.7.1 The applicant proposes to promote the licensing objectives by taking the steps identified in the operating schedule.

2.7.2 These steps must be translated into conditions by the licensing authority to be included in any granted premises licence, unless the conditions are modified by the Panel following consideration of relevant representations. These conditions are set out in the Schedule of Conditions at **Appendix 4**.

2.8 Further documentation accompanying the application

2.8.1 No further documents have been submitted by the applicant in support of the application.

3. Relevant Representations

3.1 A total of seven relevant representations were received in respect of the application (**Appendix 3**). The personal details of all members of the public have been redacted. Original copies of these representations will be available to the Panel at the hearing.

Responsible Authorities:

- Greater Manchester Police;

- MCC Licensing and Out of Hours Compliance Team;

Other Persons:

- Residents and residents groups x 4
- Business x 1

3.2 Summary of the representations:

Party	Grounds of representation	Recomm - ends
GMP	<p>The premises is close to residential properties, in an area with a large number licensed premises and with one of the largest student populations in Europe.</p> <p>Existing problems of littering, noise disturbance and anti-social behaviour are likely to be exacerbated by a further premises. This will also undermine the hard work of the local Neighbourhood Policing Team.</p> <p>The applicant has not demonstrated how grant of this application will not add to the cumulative issues within the area. MCC's licensing policy states that a genuinely exceptional case would need to be shown. Clear reasons would be expected to be given to demonstrate why the operation of the premises will not add to the cumulative impact already being experienced.</p> <p>GMP have submitted the Licensing Policy Committee – 21 January 2013 in support of their representation (“Review of the Impact of Licensed Premises in Fallowfield – Consultation Analysis”)</p>	Refuse
Licensing and Out of Hours Compliance (LOOH)	<p>The first point made by GPM above is reiterated</p> <p>The application has not addressed the special policy or demonstrated how premises will not add to the cumulative impact already being experienced.</p> <p>The application does not specifically deal with the issues that Fallowfield disproportionately suffers from including preloading with drinks enroute to licensed premises, drunkenness, litter from discarded drinks containers and ASB.</p> <p>The lack of detail in the application raises concerns that the public nuisance and public safety licensing objectives will also be undermined. LOOH raise specific points about issues they would expect to see covered in the operating schedule - staff training, risk assessments, emergency procedures are just some examples.</p>	Refuse
RES 1	<p>The premises currently opens until the early hours and is “Surounded (sic) with students creating problems and making noises”.</p> <p>Concerns are raised that the premises is not well-run, and that “They do not have right system in place”, with concerns</p>	Not stated

	<p>raised about how rubbish is stored and disposed, and that the premises is creating public nuisance.</p>	
RES 2	<p>A long-term resident who lives in very close proximity to the premises, which is also very near to “the late-night New Zealand Wines off licence”</p> <p>The objector describes the area as “now nothing more than a party/club fested, drunken drugged up conurbation, that’s really fit for no human life or existence, becoming one giant noise fest; people to and fro, taxis to and fro, shouting, screeching, hollering, yelling, “music” pumping out ad finitum (sic), from early evening until 6am in the morning.” These issues have led to extreme sleep deprivation. The area also suffers from street begging, and now rat infestation. A further premises is likely to draw more people to the area and will exacerbate these issues.</p> <p>The area is subject to a Designated Public Place Order, likely to be breached far more regularly, creating more work for local police officers.</p> <p>There have been a number of serious widely reported incidents in the area. This objector has personally experienced vandalism to his own property 8 times. One incident, apparently by drunken students, was witnessed on CCTV.</p>	Refuse
RES 3	<p>The area has a “very large transient population including huge numbers of Students in the 19 to 21 year old age group” and has become well known for student house parties and the problems surrounding them (noise, litter and ASB). The area has become a late night hang out, rather than a ‘balanced’ and ‘sustainable’ community. A further premises will add to this.</p> <p>“Students often pre-load before going out for an evening and often buy more alcohol on their way home, fueling (sic) drunken behaviour - littering from takeaway wrappers, cans, bottles, excessive noise eg shouts, screams, singing, sports chants etc”. Residents are at end of their tether. As long term residents choose to leave the area becomes even more transient, anonymous and dangerous with an increase in extremely vulnerable people (ex alcoholics, the homeless, ex offenders etc.)</p> <p>Serious violent crime in the area has increased and is likely to exacerbated. Young people have “a completely false sense of security believing that Fallowfield is ‘a student village’ and that it is an extension of the Owens’ Park Campus”</p> <p>We see no exceptional reason to depart from this policy. This is not a case for compromise.</p>	
RES 4	<p>Comments made that the area has a “massive” student population, that the objection made is the second made for an alcohol licence in the last fortnight, and that further licensed</p>	Refuse

	<p>premises 'undoubtedly' add to existing problems"</p> <p>Details are given of existing nuisance experienced: "Everyday occurrences include broken glass on surrounding pavements, vomit, litter and noise from patrons drinking in outside areas. Noise of patrons going to and from premises also creates a lot of sleep disturbance for residents." The objection comments that "young people make off licences a real 'go to place' for last minute purchases of alcohol for pre drinks social parties, drinking at bus stops as money saving ways of getting in a few drinks before paying bar prices and of course the infamous Fallowfield house parties which cause much distress to many residents."</p> <p>Recent serious violent incidents in the area have been on the national news, with a further stabbing in the past few days, further increasing concerns regarding public safety.</p> <p>There are no exceptional reasons given by the applicant to deviate from the cumulative impact. At all residents' meetings, "residents recount incidents of noise and anti-social behaviour which often relates to the consumption of alcohol in bars and clubs as well as on-street drinking and house partying. This has a terrible effect of many of us and affects our sleep, health and well being. Alcohol is a root cause of many of these problems."</p>	
<p>BUS 1</p>	<p>This representation describes the premises as being in close proximity to students' living accommodation, both on and off campus.</p> <p>Concerns about a likely increase in existing problems of public nuisance in the wider area are reiterated, along with concerns relating to public safety following recent serious incidents including a student having been murdered.</p> <p>The university "is working hard to resolve issues that surround the studentification agenda to promote better community relations. An Off-Campus Student Affairs Officer works hard with other agencies to tackle these issues. A common complaint received from local residents is the problem of anti-social behaviour after students have attended venues. The work that the University has invested in this will be potentially damaged if another outlet within Fallowfield has the capacity to supply alcohol for consumption off the premises until midnight after students will have left other local venues."</p>	<p>Refuse</p>

3.3 No conditions have been proposed by objectors so there are none from objector to include in the Schedule of Conditions at **Appendix 4**.

4. **Key Policies and Considerations**

4.1 **Legal Considerations**

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

4.2 **New Information**

4.2.1 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.

4.3 **Hearsay Evidence**

4.3.1 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.

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

4.4.1 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.

4.4.2 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.

4.4.3 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.

4.5 **Manchester Statement of Licensing Policy**

4.5.1 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.

4.5.2 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.

4.5.3 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.

4.5.4 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 5: Special Policy Area

The premises is located within the following special policy area:

Fallowfield and Wilmslow Road

The effect of the Special Policy is that the Council will refuse applications for a new Premises Licence or Club Premises Certificate, or variation of an existing licence or certificate, whenever it receives relevant representation, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced. In relation to variations, this includes any variation that seeks to add a licensable activity, increase the capacity/size of a licensed premises, or extend the hours for licensable activities, but will usually exclude minor variations.

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
- Ability to clean and maintain the street scene

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.

MS2 Effective general management of the premises

MS5 Prevent on-street consumption of alcohol

MS8 Prevent noise nuisance from the premises

MS10 Operate effective cleansing arrangements, including ensuring the premises and surrounding area are kept clean and free of litter, and adequate arrangements for the secure and responsible storage of refuse

Conclusion

- 4.6 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.
- 4.7 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.
- 4.8 Having regard to the representations, the Panel must take such of the steps set out below that it considers appropriate for the promotion of the licensing objectives:
- To grant the licence subject to:
 - the conditions consistent with the operating schedule accompanying the application, which the Panel may modify to such extent as they consider appropriate, and
 - any mandatory conditions that must be included in the licence;
 - To exclude from the scope of the licence any of the licensable activities to which the application relates;
 - To refuse to specify the person proposed in the application as the designated premises supervisor;

- d) To reject the application.
- 4.9 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 licence can take place.
- 4.10 All licensing determinations should be considered on the individual merits of the application.
- 4.11 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.
- 4.12 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.
- 4.13 **The Panel is asked to determine the application.**