

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 09 May 2023

Subject: The Lower Stables, St John's Development, Grape Street, M3 4PG -
App ref: Premises Licence (new) 286398

Report of: Director of Planning, Building Control & Licensing

Summary

Application for the grant of a premises licence made under the Licensing Act 2003, which has attracted objections.

Recommendations

That the Panel determine the application.

Wards Affected: Deansgate

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.
- Guidance issued under section 182 of the Licensing Act 2003.
- Licensing Act 2003 (Hearings) Regulations 2005.
- Any further documentary submissions by any party to the hearing.

1. Introduction

- 1.1 On 10/03/2023, an application for the grant of a Premises Licence under s17 of the Licensing Act 2003 was made in respect of The Lower Stables, St John's Development, Grape Street, Manchester, M3 4PG in the Deansgate 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 All Work and Social Bonded Limited.
- 2.3 The description of the premises given by the applicant is:

“The premises will operate as a multi-use event space. Egress from the premises will take place through exit onto Grape Street and patrons will be directed in the direction of Quay Street when dispersing.”

- 2.4 The proposed designated premises supervisor is Anthony Powell

2.5 **The licensable activities applied for:**

- Provision of regulated entertainment (plays, films, live music, recorded music, performances of dance and anything of a similar description to live music, recorded music or performances of dance):

The above activities will take place indoors only
Mon to Wed 11am to half past midnight, Thurs 11am to 1.30am, Fri and Sat 11am to 2am, Sun 11am to 11pm

- Provision of late night refreshment:
The provision of late night refreshment will take place indoors.

Mon to Wed 11pm to 1am, Thurs 11pm to 2am, Fri and Sat 11pm to 2.30am, Sun 11pm to 11.30pm

- The supply of alcohol for consumption both on and off the premises:

Mon to Wed 11am to half past midnight, Thurs 11am to 1.30am, Fri and Sat 11am to 2am, Sun 11am to 11pm

- Opening hours:

Mon to Wed 11am to half past midnight, Thurs 11am to 1.30am, Fri and Sat 11am to 2am, Sun 11am to 11pm

- Seasonal variations (to apply to all activities and opening hours)

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

On the day that British Summer Time commences, one additional hour to disapply its effect.

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 The applicant has submitted the following documents in support of their application, which are included with the application form at **Appendix 2**:

- Smoking Policy
- Dispersal Policy

3. Relevant Representations

3.1 A total of 10 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:

- MCC Licensing and Out of Hours Compliance Team;

Other Persons:

- Deansgate Ward Councillors;
- Residents (x8).

3.2 Summary of the representations:

Party	Grounds of representation	Recommends
Licensing and Out of Hours Compliance (LOOH)	<p>The premises is close to residential properties likely to be impacted by activities at the premises, likely to cause public nuisance.</p> <p>Lower Byrom Street nearby is “typically a very quiet area of the city centre, with a significant number of residential properties”. Residents are already affected by noise and/or ASB arising from nearby late-night premises.</p> <p>Residential properties at St Johns Gardens and Culvercliffe Walk and Rosetti Place are also nearby. While the application proposes dispersal measures, customers are unlikely to be supervised as far as the residential properties.</p> <p>LOOH are “satisfied that the conditions proposed by the applicant will go some way towards mitigating the risk of the Prevention of Public Nuisance”. However, the hours applied for will have an “impact beyond what is achievable with conditions alone and local residents will be affected by noise, rowdy behaviour and potentially littering and ASB”.</p> <p>LOOH therefore ask for a reduction in hours, with sale of alcohol until 11.00pm Sunday – Thursday and until midnight Friday and Saturday, with an additional 30 minutes opening/drinking up/dispersal time.</p>	Grant with amended hours
Deansgate Ward	This objection is based “on the late hours of opening”, and the “exit route along Grape	Not stated

Councillors	<p>Street and towards Quay Street.”</p> <p>Public nuisance will likely be caused to residents by people passing close to their homes. Residents of the low-rise homes at St John’s Gardens and the Rosetti apartment block will be particularly affected. One of the issues is: “The walkway is within just a few feet of residents’ front doors and residents’ bedrooms. There is no passing traffic and the area is very quiet indeed at this time. Normal volume conversation from patrons leaving these new premises will be highly disruptive to the residents in this area, including children who live here.”</p> <p>Councillors are concerned that “Had the applicant sought to understand the area in more detail, they would have become aware of this and would, I hope, have adjusted their plans accordingly. That they have not done so shows a disregard for the people who live here and a disregard for MCC’s licensing policy”.</p>	
RES 1	<p>“The premises are very close to our residential building. The Saturday night opening hours of 2:30am risks late night disturbance to Leftbank residents. It is also out of line with other neighbouring licensed premises.</p> <p>Having seen the plans overall I am very supportive of the application all I am suggesting is an earlier closing time.”</p>	Not stated
RES 2	<p>“Most of the dispersal will be from Grape Street to Water Street and then along Quay Street and some along the continuation of Water Street, both outside Leftbank Apartments. The consumption of alcohol will naturally create more buoyant and exuberant customers during their dispersal and their noise will disturb local residents. This is not acceptable to existing residents.”</p>	Not stated
RES 3	<p>The application will likely cause an increase in: “criminal damage in our area by persons affected by alcohol uprooting plants and flowers”; theft of plants; the incidence of violent arguments and fighting; littering; running of vehicle engines while stationary.</p> <p>Granting this application will “inevitably” create noise at unacceptable times of the night</p>	Not stated

	<p>disrupting sleep of both adults and children.</p> <p>There will be “disruptive noise from taxis, private hire cars and coaches”.</p> <p>The hours applied for are too late for a residential area such as this.</p>	
RES 4 and RES 7	<p>RES 4 and RES 7 make many of the same points, summarised as:</p> <p>Grant of the application will have a severe impact on residents living close by.</p> <p>Existing issues include: people passing by late at night, urinating in gardens, disturbance from noisy raucous behaviour, people parking illegally in parking spaces, returning late and playing music loudly on car music systems. These issues are likely to be extended and increased.</p> <p>The following issues are also likely: “Cars, coaches, taxis dropping off and picking up, and especially when people are dispersing all at once, after an event, cause high levels of noise on the street, and during the early hours”, and a “huge increase in vehicles using this street”.</p> <p>Other concerns are: littering, broken glass bottles, drinks glasses and food wrappers; Sleep disturbance for children living or visiting homes in the area, who will also witness the other issues outlined above.</p> <p>The hours applied for are not in keeping with a residential area.</p>	Not stated
RES 5	<p>“In addition, to the unwelcome noise there is a likelihood of revellers using our estate as a shortcut to Deansgate and as an outdoor 'public convenience'. Our estate already suffers from the latter.”</p> <p>The hours applied for a “likely to lead to an increase in both crime and disorder.”</p>	Not stated
RES 6	<p>Granting this application will “not promote the licensing objectives, in particular the prevention of crime and disorder, and public nuisance”</p> <p>The area is “already saturated with large scale venues”. The number of venues in close proximity to each other are a concern.</p> <p>Issues raised are that: the entry and exit route</p>	Not stated

	<p>will impact on nearby residents for whom public safety “is a huge concern”; noise will emanate from the premises and from attendees entering and exiting the venue; vibrations; lighting; litter; potentially using drugs, increased pollution and anti-social behaviour will also cause problems for residents; the venue will add to current traffic issues in the area, with an influx of taxis at anti-social hours.</p> <p>The estate is not closed off to the public. Residents will be prevented from “enjoying their own estate outdoor space, gaining access/exit to the resident car parks on Lower Byrom Street, or having undisturbed sleep in the late evenings/early hours”.</p> <p>The representation concludes that “Approving this application in its current form will seriously affect residents health, safety and well-being” and that “consideration needs to be given to revised shorter operation hours, restrictions on the number of days and improved plans for the safety of residents.”</p>	
RES 7	(see RES 4)	Not stated
RES 8	<p>This resident is concerned about disturbance to residents at Rozel Square arising from: outdoor music, revellers as they leave the studios; vehicles and taxis as they collect people from the premises.</p> <p>Concerns are raised about the numbers of people who may attend.</p> <p>Concerns are also raised that residents have not been contacted by the applicant with more detail about the application.</p>	Not stated

- 3.3 Any conditions proposed by objectors are set out in the Schedule of Conditions at **Appendix 4**.
- 3.4 No agreements on conditions have been reached as at the time of publication of these papers.
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.

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

- 4.3.2 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.
- 4.3.3 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.
- 4.3.4 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.

4.4 **Manchester Statement of Licensing Policy**

- 4.4.1 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.
- 4.4.2 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.
- 4.4.3 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.
- 4.4.4 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
- 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

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)

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

Section 12: Premises Licences for large-scale public events

This section sets out particular expectations regarding large scale public events, given the specific associated risks.

5. **Conclusion**

- 5.1 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.
- 5.2 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.
- 5.3 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:
- a) To grant the licence subject to:
 - i. the conditions consistent with the operating schedule accompanying the application, which the Panel may modify to such extent as they consider appropriate, and
 - ii. any mandatory conditions that must be included in the licence;
 - b) To exclude from the scope of the licence any of the licensable activities to which the application relates;
 - c) To refuse to specify the person proposed in the application as the designated premises supervisor;
 - d) To reject the application.
- 5.4 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 licence can take place.
- 5.5 All licensing determinations should be considered on the individual merits of the application.
- 5.6 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.

5.7 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.

5.8 **The Panel is asked to determine the application.**