

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 19 June 2023

Subject: Love Factory (formerly Summer of Love), 200-204 Dantzic Street
Manchester, M4 4DD – app ref: Premises Licence variation 287630
and
Love Factory (formerly Summer of Love), 200 Dantzic Street
Manchester, M4 4DD – app ref: Premises Licence variation 287631

Report of: Director of Planning, Building Control & Licensing

Summary

Application for the variation of a premises licence x 2 which have attracted objections.

Recommendations

That the Committee determines the applications.

Wards Affected: Cheetham

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 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	An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities

and work.	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.
- Any further documentary submissions by any party to the hearing

1. **Introduction**

- 1.1 On 27/04/2023, two applications for the variation of an existing Premises Licence under s34 of the Licensing Act 2003 were made in respect of Love Factory (formerly Summer of Love), Dantzic Street, Manchester, M4 4DD in the Cheetham ward of Manchester. A location map of both premises is attached at **Appendix 1**.
- 1.2 The applications were submitted at the same time, by the same person (on the same email), and both have attracted the same representations. Both are known by the same name. On the basis that they are likely to be considered by the Committee at the same time, both have been included in this one set of papers. The differences are referred to in the papers.
- 1.3 A 28-day public consultation exercise was undertaken in accordance with Licensing Act 2003 regulations; requiring the applications 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 applications published on the Council's website.
- 1.4 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.
- 1.5 Relevant representations have been received in respect of each application and so they must be determined by a Licensing Hearing Panel in accordance with the Council's Constitution.

2. **Current Licences**

- 2.1 The premises licence holder of licence 260078 is Animal Crossing Music Ltd and a copy of the current licence is attached at **Appendix 2**.
- 2.2 The premises licence holder of licence 272412 is Summer of Love Limited Ltd and a copy of the current licence is attached at **Appendix 2a**.

3. **The Applications**

- 3.1 A copy of the application to vary licence 260078 is attached at **Appendix 3**.
- 3.2 A copy of the application to vary licence 272412 is attached at **Appendix 3a**

3.3 **Changes requested**

The variations both request the same changes to hours, as follows:

To extend the hours for the sale of alcohol, regulated entertainment and opening as follows:

Sale of alcohol and Regulated Entertainment until 01:00 daily.
Opening Hours until 01:30 daily.

In addition, one application - application 287631 - requests removal of the condition below and replacement with new conditions. The proposed new conditions are included in **Annex 5** "Schedule of Conditions"

Condition requested to be removed from licence 272412
(Condition 9 of Annex 2):

Other than the event 'The Summer of Love Festival' there shall be no amplified music in the marquees or in any of the external licensed areas after 20:00 hours.

For information: the current hours on each licence are the same and are as below.

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

Mon to Sun 11am to 11pm

Supply of alcohol for consumption both on and off the premises:

Mon to Sun 11am to 11pm

Opening hours:

Mon to Sun 11am to 11.30pm

Seasonal variation at New Year only applies to all activities and opening:
From the start of permitted hours on New Year's Eve to the to the end of permitted hours on New Year's Day

- 3.3.1 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.
- 3.3.2 Any further details provided relating to any of the individual licensable activities are specified on the application forms at **Appendix 3 and 3a**.
- 3.3.3 The applicants have 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 applicants propose to promote the licensing objectives by taking the steps identified in the operating schedule.

3.4.2 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 5**.

3.5 **Further documentation accompanying the application**

3.5.1 The applications were each accompanied by a “sample noise report” in support of the application.

4. **Relevant Representations**

4.1 A total of 4 relevant representations were received in respect of each application. The representation from LOOH is the same for each but was submitted separately for each application; representations from residents were received once only and refer to both applications in the subject line. All representations are included in the one appendix, **Appendix 4**. The personal details of all members of the public have been redacted. Original copies of these representations will be available to the Committee at the hearing.

Responsible Authorities:

- MCC Licensing and Out of Hours Compliance Team

Other Persons:

- Resident x 3

4.2 Summary of the representations:

Party	Grounds of representation	Recommends
<p>Licensing and Out of Hours Compliance</p>	<ul style="list-style-type: none"> • This representation refers to noise complaints received for past events and reports that officers attended the home of one complainant, over 2 miles away. continued... • During this visit It was “confirmed the music at several addresses matched that of the premises. This would indicate there is the potential a huge number of people affected who may not have complained.” • “The removal of Annex 2 Condition 9 would increase the likelihood of noise complaints from the surrounding residents, allowing the premises to operate with amplified music until 01:00 hrs every day of the week, would significantly undermine the public nuisance licensing objective.” • The area is currently undergoing major 	<p>Refuse</p>

	<p>regeneration, with large residential units being built on the land directly adjacent to the Love Factory premises, likely to be affected by the applications.</p>	
<p>RES1 and RES2</p>	<p>This representation from RES1 was submitted along with a petition signed by 24 local residents objecting to the licence variations.</p> <p>The representations from RES1 and RES2 make the same main points, summarised as:</p> <ul style="list-style-type: none"> • There are “unacceptable noise levels” from events at the premises. Events in Summer 2022 “started in the afternoon and finished at around 11-30pm each day from Friday to Sunday”, leading to rattling windows and the resident having to move the TV to the bedroom, where noise could still be heard. Following complaints, “the sound level reduced, but only for about an hour, after which it returned to the former level.” The resident considers that “thousands of close residents within earshot are affected. The statement in the application that there have been no issues or complaints is “simply untrue”. • The licence variations, if granted, will “make an existing problem a whole lot worse by virtue of later hours and playing of amplified music not just inside the venue, but outdoors as well”. <p style="text-align: right;">continued...</p> <ul style="list-style-type: none"> • Nuisance is also caused by “long lines of taxis pulling up on Dalton Street late at night, doors slamming, drunken people shouting, widespread littering.” 	<p>Refuse</p>
<p>RES3</p>	<ul style="list-style-type: none"> • “The noise last summer was bad enough without allowing later opening and music outside. It went on all weekend and only stopped after 11:30pm. This is a bad public nuisance for this area with so many people living close by, and should never have been licensed in the first place.” • “I hope for our sanity that this is not 	<p>Refuse</p>

	granted.”	
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4.3 No conditions have been proposed by any objector so there are none to include in the Schedule of Conditions at **Appendix 5**.

4.4 No agreements on conditions have been reached with any 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:

- Identified risk factors specific to the licensed premises
- 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

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 for each application:

- a) 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;
- 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 licence can take place.

6.5 However, conditions should not be imposed on a licence 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 applications.**