

**Manchester City Council
Report for Resolution**

Report to: Licensing Sub-Committee Hearing Panel – 26 June 2023

Subject: The Lawn Club, Hardman Square, Manchester, M4 3HG - (App ref: LPU288837)

Report of: Head of Planning, Building Control & Licensing

Summary

Hearing to consider representations against interim steps under s53b of the Licensing Act 2003

Recommendations

The Licensing Act 2003 at section 4(1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which Section 4(2) sets out as:-

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

The Sub-Committee must under Section 53B of the Licensing Act 2003, having had regard to representations against interim steps taken pending a full review of a premises licence, take such steps as it considers necessary for the promotion of the licensing objectives.

Under section 53(B)(8) of the Licensing Act 2003, the Sub-Committee must:

- (a) consider whether the interim steps are necessary for the promotion of the licensing objectives; and
- (b) determine whether to withdraw or modify the steps taken.

In considering those matters the relevant licensing authority must have regard to:

- (a) the certificate that accompanied the application; .
 - (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
 - (c) any representations made by the holder of the premises licence
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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	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications

jobs and opportunities	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

Contact Officers:

Name: Fraser Swift
Position: Principal Licensing Officer
Telephone: 0161 234 1176
E-mail: f.swift@manchester.gov.uk

Name: Ashia Maqsood

Position: Technical Licensing Officer
Telephone: 0161 234 4139
E-mail: premises.licensing@manchester.gov.uk

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 5 June 2023, an application was made by Greater Manchester Police under s53A of the Licensing Act 2003 for a Summary Review of Premises Licence 182538 for The Lawn Club, Hardman Square, Manchester, M4 3HG in the Deansgate ward of Manchester.
- 1.2 The grounds of the application for review are that in the opinion of a senior police officer the premises are associated with serious crime or serious disorder or both.
- 1.3 A copy of the Summary review application is attached at **Appendix 1**
- 1.4 A location map and photograph of the premises is attached at **Appendix 2**.
- 1.5 On 7 June 2023, the Licensing Committee considered whether to impose interim steps on the premises licence in order to ensure the promotion of the Licensing objectives until the full review hearing on 30 June 2023.
- 1.6 The decision of the panel was to suspend the licence.
- 1.7 A copy of the panels decision is attached at **Appendix 3**
- 1.8 On 22 June 2023 the premises licence holder made a representation against the interim steps the Licensing Committee imposed on the premises licence
- 1.9 The committee are now asked to
 - consider whether the interim steps are necessary for the promotion of the licensing objectives; and
 - determine whether to withdraw or modify the steps taken.
- 1.10 A copy of the representation is attached at **Appendix 4**.

2. Interim Steps pending the review

- 2.1.1 On the date of the review hearing, the licensing authority is required to review any interim steps that are in place and consider 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.

3. Current Premises Licence

- 3.1 A copy of the current licence is attached at **Appendix 5**. *Please note the licence holder has changed to Hardman Bars Ltd effective 21/06/2023*
- 3.2 A copy of the outdoor management policy is attached at **Appendix 6**.
- 3.3 The previous premises licence holder was Spinningfields Estate Limited and had held the licence 17/12/2015 to 21/06/2023
- 3.4 An application to transfer the premises licence was submitted on 06/06/2023 to transfer the licence to Hardman Bars Ltd .

3.5 The transfer application was granted on 21/06/2023

3.6 The designated premises supervisor is Thomas McCartney who has held this position since 23/12/2021

3.7 The licensable activities permitted by the licence are:

Sale by retail of alcohol							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0800	0800	0800	0800	0800	0800	0800
Finish	2400	2400	2400	0030	0130	0130	2400
The sale of alcohol is licensed for consumption on the premises 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.							

Performance of plays; Exhibition of films							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1130	1130	1130	1130	1130	1130	1130
Finish	2400	2400	2400	2400	2400	2400	2400
Licensed to take place both indoors and outdoors.							
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.							

Live music							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1130	1130	1130	1130	1130	1130	1130
Finish	2300	2300	2300	2300	2400	2400	2300
Licensed to take place both indoors and outdoors.							
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.							

Recorded music							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1130	1130	1130	1130	1130	1130	1130
Finish	2400	2400	2400	0030	0130	0130	2400
Licensed to take place both indoors and outdoors.							
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.							

Provision of late night refreshment							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	2300	2300	2300	2300	2300	2300	2300
Finish	0030	0030	0030	0100	0200	0200	0030
Licensed to take place both indoors and outdoors.							
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.							

Hours premises are open to the public							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0800	0800	0800	0800	0800	0800	0800
Finish	0030	0300	0300	0100	0200	0200	0030
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.							

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 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.

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 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.

4.5.4 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:

- Identified risk factors specific to the licensed premises
- Evidence of pre-existing problems in the area
- 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
- MS3 Responsible promotion and sale of alcohol
- MS4 Prevent the use of illegal drugs, new psychoactive substances (NPS) and the spiking of drinks at the premises
- MS5 Prevent on-street consumption of alcohol

- MS6 Provide a Duty of Care for intoxicated or vulnerable customers and medical emergencies
- MS7 Maintain a safe capacity
- MS8 Prevent noise nuisance from the premises
- MS9 Effectively manage exterior spaces (eg 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
- MS11 Ensure the wellbeing of children on the premises
- MS12 Prevent underage sales of alcohol, including proxy sales

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 reaching the decision, regard must be had to relevant provisions of the national guidance and the Council’s licensing policy statement.
- 5.3 The Panel must consider what steps are appropriate for the promotion of the licensing objectives.
- 5.4 In making its decision with regard to the representation against the interim steps, the steps the Panel can take are:
- a) To modify the conditions of the licence;
 - b) To exclude any of the licensable activities from the licence;
 - c) To remove the designated premises supervisor;
 - d) To suspend the licence
- 5.5 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.
- 5.6 All licensing determinations should be considered on the individual merits of the application.
- 5.7 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.

- 5.8 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.
- 5.9 **The Panel is asked to determine what steps, as set out in 5.4 above, are appropriate for the promotion of the licensing objectives.**