

**Manchester City Council  
Report for Resolution**

**Report to:** Licensing Subcommittee Hearing Panel – 18 December 2023

**Subject:** My Thai Didsbury, 178 Burton Road, Manchester, M20 1LH - App ref:  
Premises Licence (new) 294713

**Report of:** Director of Planning, Building Control & Licensing

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**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.

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**Wards Affected:** Didsbury West

<b>Manchester Strategy Outcomes</b>	<b>Summary of the contribution to the strategy</b>
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

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**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 23/10/2023, an application for the grant of a Premises Licence under s17 of the Licensing Act 2003 was made in respect of My Thai Didsbury, 178 Burton Road, Manchester, M20 1LH in the Didsbury West 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 My Thai Wilmslow Limited.
- 2.3 The description of the premises given by the applicant is: '*Thai Restaurant*'
- 2.4 The proposed designated premises supervisor is Apiyada Latham.
- 2.5 **The licensable activities applied for:**
- Provision of regulated entertainment (recorded music):  
Mon to Sun 11.30am to 11pm  
The provision of regulated entertainment (recorded music) will take place both indoors and outdoors.
  - The supply of alcohol for consumption both on and off the premises:  
Mon to Sun 11.30am to 11pm
  - Opening hours:  
Mon to Sun 11.30am to 11pm
- 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**.

## 3. **Relevant Representations**

3.1 A total of 13 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:

- Didsbury West Ward Councillors;
- West Didsbury Residents Association;
- Residents (x9)

3.2 Summary of the representations:

<b>Party</b>	<b>Grounds of representation</b>	<b>Recommends</b>
<b>GMP</b>	<p>GMP have submitted a representation against the application on the grounds of all of the Four Licensing Objectives likely to be undermined should the application be granted in its current form.</p> <p>GMP are unconvinced that the applicant retains a suitable understanding of what is required in respect of upholding and enforcing the Licensing Objectives and this is further</p>	Refuse

	<p>reinforced with the lack of enforceable conditions being offered via way of the applications operating schedule document.</p> <p>As a consequence of the above GMP are requesting that the application be refused.</p>	
<p><b>Licensing and Out of Hours Compliance</b></p>	<p>LOOH Compliance have expressed concern regarding the potential for noise nuisance and disturbance occurring at/emanating from the premises that would be likely to negatively impact upon those residents who reside in close proximity to the premises.</p> <p>It is of particular concern to LOOH Compliance that noise generated by patrons of the premises, when combined with the plan to provide external regulated entertainment (in the form of recorded music), will create unnecessary public nuisance issues for residents. Furthermore, the emptying of empty of waste into bins and the collection of waste are also likely to generate unacceptable levels of noise disturbance for local residents. The fact that the applicant has not offered any suitable mitigating noise disturbance measures (in the form of appropriate conditions via the applications operating schedule) is also of concern to LOOH Compliance.</p> <p>Consequently so LOOH Compliance are requesting that the application be granted but only with the imposition of additional conditions that, they believe, will prevent the occurrence of any/all possible noise disturbance issues likely to arise at the premises</p>	<p>Grant with conditions</p>
<p><b>Didsbury West Ward Councillors</b></p>	<p>The Local Ward Councillors have submitted representations against the application based on their concerns regarding the potential for noise disturbance issues occurring at an antisocial time of the day, which will have a subsequent adverse impact upon those persons residing in close proximity to the premises.</p> <p>As with LOOH Compliance, it is of specific concern to the Councillors that the applicant is applying to provide external Regulated Entertainment (recorded music) up to</p>	<p>Grant with amendments to provision of Regulated Entertainment and inclusion of suitable 'drinking-up' period re the supply of alcohol timings.</p>

	<p>2300hours on a daily basis, and it is felt that such a provision will only serve to create an unacceptable public nuisance/noise issue to nearby residents.</p> <p>It has also been noted by the Councillors that (regarding the supply of alcohol at the premises) the applicant has not indicated any form of 'drinking-up' time in their application. It has been suggested, by the Councillors via their representation, that the end-time for the supply of alcohol at the premises be amended so that a suitable 'drinking-up' time be included, which will assist in preventing incidents of public disorder and nuisance.</p>	
<p><b>West Didsbury Residents Association</b></p>	<p>West Didsbury Residents Association are objecting to the application solely on the grounds of the Licensing Objective relating to the Prevention of Public Nuisance being undermined by the applicants request for the provision of Regulated Entertainment (recorded music both indoors and outdoors).</p> <p>The applicants plan to provide external Regulated Entertainment does not meet with WDRA's approval as they believe that such a provision will only lead on to unacceptable levels of noise disturbance that will impact negatively upon those persons residing in close proximity to the premises.</p> <p>WDRA are, therefore, requesting that the request for external Regulated Entertainment be refused and that this provision should be restricted to the inside of the premises only, and only when the bi-fold doors to the front of the premises are fully closed. Such a restriction would ensure that the premises falls in line with other licensed premises in the locality that have similar restrictions on the provision of Regulated Entertainment at their premises.</p>	<p>Grant with amendments to the provision of Regulated Entertainment (recorded music)</p>
<p><b>Residents (x9)</b></p>	<p>The various representations submitted against the application by the private residents effectively mirror those representations as served by the named Responsible Authorities, Councillors and the local residents association.</p> <p>Collectively it is of concern to all residents that</p>	<p>Grant with amendments to the provision of Regulated Entertainment (recorded</p>

	<p>the application for the external play-back of recorded music is only likely to present and create issues of public disturbance and unnecessary noise pollution, particularly at an antisocial period of the evening (if permitted up to 11.00pm). The general consensus amongst the private residents is that such a request be denied and that the provision of Regulated Entertainment (in the form of recorded music) be restricted to the internal area of the premises only and at a set restricted volume.</p>	<p>music)</p>
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3.3 Any conditions proposed by objectors are set out 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 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
- 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
- Proximity to sensitive uses (Cavendish Community Primary School)
- 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

MS3 Responsible promotion and sale of alcohol

MS5 Prevent on-street consumption of alcohol

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

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

MS11 Ensure the wellbeing of children on the premises

MS12 Prevent underage sales of alcohol, including proxy sales

### ***Section 11: The use of tables and chairs on the public highway***

This section provides that the operation of any areas on the public highway licensed for tables and chairs should be considered with regard to all relevant Standards set out in Section 8 of the Policy.

## **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.**