

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 8 July 2024

Subject: Bar on Wheels - 40-46 Ashton Old Road, Container 1 at Storage World, 40-46 Ashton Old Road, Manchester, M12 6LP - App ref: Premises Licence (new) 300454

Report of: Director of Planning, Building Control and 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: Ardwick

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):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy, please contact one of the contact officers above.

- 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 30/04/2024, an application for the grant of a Premises Licence under s17 of the Licensing Act 2003 was made in respect of Bar on Wheels/ 40-46 Ashton Old Road, Container 1 at Storage World, 40-46 Ashton Old Road, Manchester, M12 6LP in the Ardwick 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 Bar on Wheels Ltd.
- 2.3 The description of the premises given by the applicant is: This is a storage unit within a storage depot yard. It is an 160 square foot Container. The business wish to retail groceries with alcohol online (this is one of several) and do home delivery. There will be no sale of alcohol to the public at this site.
- 2.4 The proposed designated premises supervisor is Hemant Ashok Bansal

2.5 The licensable activities applied for:

The supply of alcohol for consumption off the premises only:
Monday to Sunday open 24 hours

Opening hours:
Monday to Sunday open 24 hours

- 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 2 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;
- Public Health

3.2 Summary of the representations:

Party	Grounds of representation	Recommends
Licensing and Out of Hours Compliance	Undermining of all four licensing objectives: The Prevention of Crime and Disorder, The Protection of Children From Harm, The Prevention of Public Nuisance and Public Safety, through insufficient detail offered in the proposed conditions with specific regards to age-verification, refusals and late-night deliveries, as well as the practical application of the proposed business model.	Refuse

	Undermining of the Public Spaces Protection Order (PSPO) – Insufficient detail offered regarding MCC area-based policies and special policy areas	
Public Health	<p>The Protection of Children From Harm – insufficient detail offered in conditions specifically regarding Challenge 25 and underage/intoxicated sales</p> <p>The Prevention of Public Nuisance – insufficient detail offered in conditions with regards to noise nuisance and anti-social behaviour</p> <p>Undermining of the Public Spaces Protection Order (PSPO) – Insufficient detail offered regarding MCC area-based policies and special policy areas</p>	Refuse

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 2 of the Policy outlines out the General Principles that will be applied to

- Licensing hearings
- The role of the licensing objectives in decision-making
- The determination of each case on its own merits
- Need and commercial demand
- Evidence
- Cumulative impact
- Hours and Conditions
- Refusal of applications

4.5.4 It also sets out that a key aim of this policy is to ensure that licensed venue density reflects an appropriate mix of venue types, including non-alcohol-related entertainment options (see Venue diversity, density and availability in Section 3) and so in the growth and development of areas, we aim to ensure that the grant of further licences (and variations) delivers this ambition. In areas where the correct balance is not struck, the intention is to diversify the licensed economy there.

- 4.5.5 Section 4 of the Policy (How we will consider Premises Licence applications) sets out how the Licensing Policy is intended to be used in practice for licence applications and licensed premises.
- **What:** The nature of the licensable activities and their alignment with the city's strategic goals.
 - **Where:** The location's suitability, considering its impact on the local community and alignment with area-based policies.
 - **How:** Operational standards and management practices, focusing on the potential impact on licensing objectives.
 - **When:** Operational hours, particularly their fit with the city's nightlife phases—twilight, evening, night-time, and late-night economies:
 - Twilight (5–7pm)
 - Evening economy (6–10pm)
 - Night-time economy (9pm–1am)
 - Late night economy (12 midnight–4am+).

4.5.6 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:

Licensable Activity Special Policies

LASP3 Operation of Challenge 25 in age-verification policies - the licensing authority's preferred approach is Challenge 25, whereby any person considered by the server to be under the age of 25 needs to provide proof that they are aged 18 or over.

LASP3 Delivery services (for alcohol and late-night refreshment) - when considering applications for delivery services, in addition to other relevant elements of the policy, the licensing authority will consider how the applicant will ensure that this service is not likely to adversely impact on the licensing objectives. This policy sets out relevant considerations.

Section 6: Area-Based Policies

Section 6 of the MCC Licensing Policy 2024-29 outlines the area-based policies for Manchester, detailing specific guidelines and considerations for various districts within the city. These policies recognise the unique characteristics, challenges, and opportunities of different areas, aiming to ensure that the growth and management of licensed premises contribute positively to the local communities and the city as a whole.

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.**