

Licensing & Out of Hours Compliance Team - Representation

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Premise Details

Application Ref No	REF 248578
Name of Premises	Mahiki
Address	1 Central Street, Manchester, M2 5WR

Representation

The Licensing Out of Hours Team (LOOH) are putting forward a representation in support of the Summary Licence Review application made by Greater Manchester Police (GMP). The LOOH team believe the premises licence holder has shown an inability to uphold the licencing objectives namely; public safety, the prevention of public nuisance and prevention of crime and disorder.

Mahiki is located on Central Street, Manchester, M2 5WR. The current licence holder, Central Street Leisure (Manchester) LTD, of which Adam Karim is listed the sole director, took over the premises in April 2019. The premises operates as a nightclub licensed to sell alcohol until 05:00.

LOOH continued involvement and engagement with the premises from the opening night until present day would conclude Adam Karim, the licence holder, to have complete disregard for the Licensing Act 2003, for the Licensing Out of Hours Team, Manchester City Council, as the Licensing Authority, and most importantly the safety of its customers.

The premises was first issued a warning letter with regards to breaches of their licence on 22nd May 2019. Further warning letters were sent out on 11th September and 9th November following their failure to comply with their obligations to uphold their premises licence and the conditions set out within it. The LOOH team requested a meeting at the Town Hall Extension on the 24th September 2019 to address the continued breaches of licence conditions in a more formal manner. This meeting was attended by LOOH, GMP, the premises licence holder, the general manager at the time, and their legal representatives. It was advised the DPS was out of the country. At the conclusion of the meeting on the 24th September 2019 the Licence holder and legal representatives confirmed that we would be able to meet with the DPS, however this has not been forthcoming and every attempt we have made has been dismissed or delayed.

The LOOH team have serious concerns regarding the management of the premises, the DPS involvement and confusion around this. At this point it is pertinent to highlight that LOOH have spent a considerable amount of time, through engagement with the premises, upward of thirty night visits to the premises to seek compliance and educate those responsible on adhering to their licence and being able to promote the four licensing objectives.

The named DPS has never been present during any of the night visits conducted while the premises is operating, the LOOH team believe they have had nothing to do with the actual operation of the premises and are merely used as a proxy to add further distortion to identify those ultimately responsible. The current general manager, Gabriel Roderiques, believed he was the DPS and continued to state as such to different officers, despite being informed otherwise. He was unable to name the current named DPS on the licence, or correctly identify the person he believed to be the previous DPS before himself, when questioned on the 18th July 2020.

At a multiagency visit conducted by GMP and a LOOH officer later in the evening on the 18th July 2020 Mr Roderiques maintained he was the DPS, confirmed by Mr Karim who was also present. When questioned in regard to Ahmed Fathalla, the named DPS, Mr Karim advised that Mr Fathalla was managing other premises on his behalf. Mr Roderiques and Mr Karim had not provided the correct DPS named on the premises licence, and when questioned by the LOOH officer Mr Karim responded "nobody reads the licence anymore". With concerns that no qualified persons were present and in control of the premises Mr Karim and Mr Roderiques were asked to show training records on licensing, neither were able to evidence any, advising that these were stored at head office. Officers asked Mr Karim, Mr Roderiques, Mr Fathalla, and a member of staff what the licensing objectives were; none of whom could answer the question. Exhibited BS01 is a witness statement from the LOOH officer who attended the above evening. As those

responsible for the management and training for the premises were inept to provide basic licensing knowledge the LOOH team are led to believe this training has not been done, or at least refreshed within the last 6 months.

The following licence breaches have been raised to the management of the premises, some of these on multiple occasions:

Annex 1 Condition 6

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

Annex 2 Condition 2

Recorded CCTV images shall be maintained and stored for a period of thirty-one days and shall be produced to the Police or Licensing Authority upon request.

Annex 2 Condition 4

Any person left in charge of the premises shall be trained in the use of any such CCTV equipment.

Annex 2 Condition 6

At all other times, SIA registered door staff shall be employed at the premises in accordance with a risk assessment, to be carried out by the DPS. When employed, door staff shall wear high visibility armbands.

Annex 2 Condition 7

When employed, a register of those door staff employed shall be maintained at the premises and shall include:

- a. *the number of door staff on duty;*
- b. *the identity of each member of door staff*
- c. *the times the door staff are on duty.*

Annex 2 Condition 9

Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the Licensing Objectives. Staff shall be trained in the laws relating to under age sales and the sale of alcohol to intoxicated persons; identification of customers who have consumed excessive alcohol; the problems associated with the spiking of drinks; and how to deal with incidents of disorder within the premises. This training shall be documented and repeated at 6 monthly intervals.

Annex 2 Condition 10

A refusals book shall be maintained at the premises, and made available to an officer of a responsible authority on request.

Annex 2 Condition 15

Sufficient members of staff shall be employed at the premises to serve customers and keeping queuing to a minimum.

Annex 2 Condition 16

The premises shall subscribe to and operate the Nitenet radio system.

Annex 2 Condition 17

There shall be no entry permitted to the premises after 02:30 daily, save for returning smokers.

Annex 2 Condition 18

There shall be no externally promoted events.

Annex 2 Condition 22

The premises shall maintain an incident log and public liability insurance.

Annex 2 Condition 31

The premises licence holder shall ensure that persons leaving the premises conduct themselves in an orderly manner and do not cause nuisance to occupants of nearby premises.

Annex 2 Condition 35

Staff training shall include the Challenge 21 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff shall receive refresher training every 6 months.

The licence condition breaches listed above account for over 1/3 of the total licence conditions in Annex 2 of the premises licence. Following conversations with Mr Karim and the breaches listed the LOOH team believe that the

licence holder has no regard for the conditions imposed as a requirement in the use of their premises licence. Supporting evidence of these breaches exhibited BS02.

During our involvement with the current licence holder multiple notices have been served by Manchester City Council regarding waste issues, including fly tipping, outside the premises. Despite continued engagement and meetings with management at the premises the issues continued. Exhibited BS03 is a statement from John Power, Neighbourhood Compliance Officer, along with photographic evidence.

As with GMP, LOOH share concerns over the premises in regard to crime and disorder. On the 15th February 2020, officers visited the premises after hearing a distressing and alarming incident unfolding outside the premises from the office at the Town Hall Extension, officers arrived just after the incident. A patron from the premises approached LOOH officers, introducing himself, asking if officers knew who he was, and then proceeded to boast of his criminal notoriety. CCTV footage was requested from the premises, including bodycam footage from the door staff as the internal premises footage was of poor quality and coverage. The bodycam footage was not made available, with the reason they had pressed 'night vision mode' rather than record so had no footage of the incident. The other door staff with bodycam had 'not been dealing with the incident' so not recorded either.

On reviewing the CCTV footage from the premises, exhibited BS04, a physical altercation had taken place inside the premises on the dancefloor, whereby a male had a large cut on the forehead. Door staff removed some of the offenders from the premises, however those involved then continued to fight outside with little attempt to diffuse the situation. A male, who has been a regular DJ at the premises, was involved with the groups fighting outside. The males involved in the altercation were granted re-entry to the premises on repeated occasions, shaking the hands of staff members on their way inside. There are serious concerns over the lack of control the door staff displayed during the incident, with a member of the door staff also removing his badge as events unfolded. Allowing these individuals back inside, whilst not knowing of potential repercussions, undermines not only prevention of crime and disorder but potentially public safety if anything further was to escalate inside.

On the 20th October 2019 officers walking past the premises, on the way elsewhere, noticed a male lying on the pavement, at the door of Mahiki's entrance on Southmill Street. Some patrons appeared to be checking on the welfare of the male, however no member of staff showed concern or was attending to the individual. After it was apparent the premises were not offering support for the male, even at the point of fitting. As officers approached, making their presence known, door staff then appeared to call for an ambulance and staff began supporting the male until a paramedic arrived. On reviewing the CCTV footage, exhibited BS05, the male can be seen being carried outside by approximately 4-5 members of staff, before being placed on the pavement outside. The male is then left on the floor for around 10 minutes with no staff assistance before the call is made for an ambulance. Officers do not believe this call would have been made had officers not approached. Witness statement from one officer present exhibited BS06.

The below are issues relating directly to the re-opening of the premises post lockdown and the relaxation of government COVID 19 measures. We believe the below constitutes the undermining of public safety and prevention of public nuisance licensing objectives as the premises have increased the chance of contraction of a potentially fatal illness by not complying with government guidelines. On 23rd March the government announced lockdown measures following the worldwide pandemic, within this a number of types of establishment were ordered to close. Included in this list were nightclubs, discotheques and dancehalls, which at the time of writing this representation continue to be closed.

On the 11th July 2020 the premises reopened following notification to the LOOH team that they would be operating as a "late night bar, with table service only, with socially distanced tables, and low level music." Two visits from the LOOH team took place prior to opening to discuss plans, actions and support with their risk assessments to help abide by government COVID 19 guidelines, keeping customers and staff safe. Officers visited the premises in the early evening to find the premises operating compliantly as described earlier in the day. However, an officer walked past the premises at 01:54 and witnessed the music levels outside were at a high level, with the bass vibrating the metal bars. The officer entered the premises and asked the general manager to explain why patrons were stood up dancing and the music at such a high level. The manager advised the officer that the premises would now be closing offering assurances that this activity would not continue. The same officer passed the premises at 02:16 with the music continuing to be played at an excessive level, with no signs of closing as advised. Video footage exhibited BS07.

This was a clear indication the premises was continuing to operate as a nightclub, showing no signs of closing. With such concerns both LOOH and GMP officers attended. On arrival Mr Roderiques had no explanation to offer and closed the gate, disappearing inside the premises. Officers were able to gain entry and could clearly see the premises was continuing to operate as a nightclub, with complete disregard for any of the previous visits, or assurances offered. The music was at a high level, officers were unable to communicate with each other, people were dancing and vertically drinking. Officers approached the DJ booth to ask that the music was turned off, however Mr Roderiques had already asked the DJ to do so. As the DJ turned the music off Mr Karim approached officers, ordering the DJ to "Turn it back on, I don't care what these are saying, turn the music back on now". After a combative exchange with Mr Karim, the music level had been reduced to a volume he believed to be a compliant decibel level following government guidance. Officers requested the premises CCTV footage from the night and left the premises. Exhibited

BS08 witness statements from the officers who attended on the night.

On the 17th July 2020 the LOOH team notified Mr Karim and Mr Roderiques of our intention to serve a Prohibition Notice following the visit, the email exchange is exhibited BS09. LOOH officers formally issued the Prohibition Notice on Mr Karim and Mr Roderiques on the 18th July 2020. On meeting Mr Karim the reasons for serving the notice were fully explained. Officers asked Mr Karim what he thought was the difference between a bar and nightclub, to which he advised he had received legal advice and as they were not charging an entry fee they were not operating as a nightclub. Mr Karim acknowledged officers concerns with vertical drinking and the music level, however advised that there was “no dancing and that he was in charge of that.”

Officers attending on the 12th July 2020 had requested the CCTV footage from management on the night, however despite further requests this was not provided until Saturday the 18th July. On the 18th July when officers first attended to collect the footage, management advised that they could not access the CCTV as the password had changed. A further visit by GMP and LOOH later that evening was made to establish if the CCTV was in fact working. Whilst waiting for the CCTV to download, issues regarding the named DPS, along with evidence of no staff training, led GMP to issue a Section 19 closure order until satisfied these were resolved.

Having reviews the CCTV footage, this showed the premises to be operating as a nightclub, the COVID 19 measures put in place prior to opening were no longer being upheld, and raised further concerns over Mr Karim’s suitability in managing this premises. The footage shows Mr Karim not abiding by COVID 19 guidance himself, dancing with patrons and drinking alcohol.

Whilst the Prohibition Notice was still in force, prohibiting the premises operating as a nightclub, a visit took place with LOOH and GMP officers on the 2nd August 2020 at 01:06. Officers entered the premises to find no social distancing, live music entertainment in the form of a DJ mixing, music at a high level, dancing, vertical drinking, and high level of noise from patrons having to shout over the music. Mr Roderiques advised that they would turn the music down but he did not acknowledge other issues raised. On revisiting at 01.45 on the 2nd August, the music was still audible from street level, high levels inside, customers were still having to raise their voices over the music, vertical drinking taking place and patrons mixing between tables. The premises had shown no attempt to alter their operation which had led to the issuing of the prohibition notice, and continued to operate in an unsafe manner, breaching the Prohibition Notice served on the 18th July.

Serious concerns were also raised with the Southmill Street entrance (fire exit) being closed and bolted. This would be the closest exit point to the room in use in case of a fire. This is the second time the premises had to be reported by the LOOH team to GMFR service for locking of fire exits while patrons are still inside, the previous being on the 1st July 2019. Exhibited BS10 statements from officers who attended this visit, accompanied by video footage of the night taken from mobile phones.

Following the above reported breach of the Prohibition Notice, and none compliance with COVID 19 guidelines, the LOOH team requested the CCTV from the above visit. On the 5th August 2020 Mr Karim refused to provide this CCTV citing electrical issues affecting the CCTV system for that weekend only, exhibited email BS11. Given the previous obstructive behaviour in providing the footage, we believe this to be an attempt to conceal evidence of the flagrant disregard of the current guidance.

Since Mr Karim has taken over as the licence holder, both LOOH and GMP have spent a considerable amount of time in supporting and educating the premises to comply with the Licensing Act 2003. Despite any assurances from Mr Karim and the management team the premises still continue to flout conditions and refuse to take on board responsibility or advice given at any visits. The current pandemic is the biggest threat to public health that we have ever been subject to in our lifetimes and necessary adjustments have been required from all industries to prevent the spread and catastrophic impact that it has and will have on the world. Mr Karim, from his actions, has shown that he believes he is exempt, or that these adjustments do not apply to him and his business. In the time the premises has been in his control and especially during the current crisis he has risked the lives of the many people who have chosen to visit his premises under the guise that he operates a safe venue. He has consciously chosen to operate in a way that would further increase the spread of COVID 19 against the advice of government experts. He has sought to profit by operating as normal whilst other nightclubs have followed instructions to remain closed.

No further conditions or assurances can be offered at this point to alleviate our concerns. Mr Karim has shown that he has complete comprehension to his actions but chooses to do what he wants regardless of his legal requirements.

Mr Karim has made himself the DPS of the premises, he is heavily involved in the operation of the premises and therefore any changes to this would have no impact on how the premises is managed.

We would recommend that this licence is revoked.

Recommendation: Revocation of the Premises Licence