

SPEAKERS PANEL (LIQUOR LICENSING)

12 August 2020

Commenced:10.00am

Terminated: 12.40pm

Present: Councillors Sweeton (Chair), Cartey and Quinn

In Attendance:	Mike Robinson	Regulatory Services Manager
	Gemma Lee	Regulatory Compliance Officer
	David Joy	Legal Representative TMBC
	PC Thorley	Greater Manchester Police
	Mr Knibbs	Area Manager, Hawthorne Leisure Ltd
	Mr Gurney	Operations Director, Hawthorn Leisure Ltd
	Mr Piers Warne	Legal Representative (Hawthorn Leisure Ltd)

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. APPLICATION FOR A REVIEW OF A PREMISES LICENCE – THE OWD JOSS (LAST ORDERS), MARKET STREET, HYDE

Consideration was given to an application for a review of a premises licence for The Owd Joss (Last Orders), 81 Market Street, Hyde. SK14 2QT.

The Regulatory Services Manager explained that Section 53A of the Licensing Act 2003 required the licensing authority, on receipt of an application for an expedited review, within 48 hours of the time of its receipt, to consider under section 53B whether it was necessary to take interim steps pending the determination of a review of the premises licence.

On 16 July 2020 the Speakers Panel (Liquor Licensing) held a hearing to consider taking such interim steps, the decision of the panel was to suspend the licence. A copy of the decision notice was appended to the report.

Following the Interim Steps and the suspension of the licence, a meeting took place on 28 July 2020 with Greater Manchester Police, Hawthorn Leisure, TLT Solicitors and the Licensing Authority to discuss the future of the Owd Joss. A number of conditions agreeable by Greater Manchester Police and the Licensing Authority were appended to the report.

Following the meeting on the 28 July 2020, TLT Solicitors suggested amendments to a number of the conditions proposed by Greater Manchester Police and the Licensing Authority, which were also appended to the report.

A condition had been agreed in principle regarding personal licence holders but the parties had not been able to agree the scope and wording of the condition.

Pc Thorley then addressed the Panel and referenced the serious crime committed at the premises as detailed in the decision notice.

The Panel considered a request made by PC Thorley to exclude the public/press whilst he presented the CCTV evidence of the incident on 13 July 2020. The Panel agreed to exclude the public/press during this part of the hearing as the public interest in allowing the public access was outweighed by the public interest in excluding the public on the basis that a criminal investigation was ongoing in relation to the incident on 13 July 2020 (Para 7, Schedule 12A Local Government Act 1972 and Regulation 14 of The Licensing Act 2003 (Hearings) Regulations 2005).

The CCTV was then presented and questions were asked and answered relating to the CCTV footage.

PC Thorley stated that the condition relating to personal licence holders was required due to the poor management and control in the premises at the time of the serious incident on 13 July 2020. Properly trained staff holding a personal licence may have helped prevent the incident. Mr Robinson confirmed that other town centre premises had a similar condition following a review. The wording proposed by Greater Manchester Police was as follows:

A Personal Licence Holder must be present at the premises at all times licensable activities, live music (amplified or unamplified), recorded music or any other types of entertainment (amplified or unamplified) are taking place.

Greater Manchester Police were of the view that it was necessary for a personal licence holder to be on the premises at all times when licensable activities were taking place on the premises. This would ensure that the premises were effectively managed.

Ms Lee, Regulatory Compliance Officer, then addressed the Panel and referenced her submission made on behalf of the Licensing Authority, as circulated with the agenda papers prior to the hearing. The representation addressed concerns regarding the seriousness of the incident on 13 July 2020 and identified that a prohibition notice had been served on the premises in April 2020 due to a breach of the Covid 19 Regulations.

Mr Warne, on behalf of the Licence Holder, addressed the Panel and confirmed agreement with the following conditions:

CCTV

A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Greater Manchester Police.

The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.

The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route, the bar and within any other vulnerable areas as identified other public areas as agreed between the premises licence holder and by Greater Manchester Police.

Recorded footage must be provided to Greater Manchester Police or a representative of any responsible authority on request and at a time agreed between the DPS and Greater Manchester Police. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times. The DPS/ manager will comply with any immediate request to view CCTV made by Greater Manchester Police or Licensing Authority relating to the investigation of an identified criminal offence.

A member of staff who is trained to operate the system and supply footage must be present at the premises at all times when licensable activities are taking place.

The Designated Premises Supervisor must ensure that the CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority Greater Manchester Police or the Licensing Authority on request.

Suitable signage informing customers that a CCTV system is in operation must be placed in prominent positions at all entrances to within the premises, including information required to be shown to comply with data protection legislation on the Data Protection Act and the Human Rights act.

Door Staff Log

A Door Supervisor Log shall be correctly maintained at the premises. This will include the following details:

- (i) The door staff names, dates of birth and home addresses;*
- (ii) Full details, name, address and contact number of employment agency used*
And for each individual period of trading:
- (iii) The name of the individual member of door staff*
- (iv) His/Her Security Industry Authority licence number*
- (v) The time and date He/She starts and finishes duty*
- (vi) The time of any breaks taken whilst on duty*
- (vii) Each entry shall be signed by the door supervisor, DPS or nominated person*

Incident Book

An incident book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident book must be used to record the following:

- (i) Any incident of violence or disorder on or immediately outside the premises as notified to, or witnessed by, the staff or management*
- (ii) Any incident involving controlled drugs (supply/possession/influence) on the premises as notified to, or witnessed by, staff or management*
- (iii) Any other crime or criminal activity on the premises as notified to or witnessed by, staff or management*
- (iv) Any refusal to serve alcohol to persons who are drunk (On sale and off sale premises only)*
- (v) Any refusal to serve alcohol to under 18's or anyone who appears to be under 18*
- (vi) Any call for police assistance to the premises made by staff or management*
- (vii) Any ejection from the premises*
- (viii) Any first aid/other care given to a customer with the exception of minor injuries or care for minor illness*

Challenge 25

The premises must operate a "Challenge 25" scheme at the premise in relation to age verification for alcohol sales and other age-restricted products. Signs and/or posters must be displayed in prominent positions inside the premise to inform customers of this condition.

Staff Training

Any staff employed at the premises will receive training commensurate with their duties by the Designated Premises Supervisor on first appointment. Refresher training will be provided and at least every three months thereafter. Training will include the law in relation to input on preventing underage sales, sales of alcohol to people who are drunk, application of the drugs policy and any other relevant matters. A written record will be kept of all training carried out. This record must be kept on the premises and made available for inspection by any responsible authority.

Pubwatch

Where a Pubwatch scheme is in operation, the designated premises supervisor must be an active member of the scheme.

Active member is defined as someone who:

(i) Attends a minimum of 50% of Pubwatch meetings between 1 January and 31 December annually. Attendance at Pubwatch meetings will be measured by the use of written records kept by the Chair and/or Secretary of the relevant Pubwatch group. When calculating whether 50% of meetings have been attended by the designated premises supervisor any meetings cancelled by the Chair/Secretary, or meetings cancelled for any reason out of the control of the designated premises supervisor will not be counted.

(ii) Actively enforces all collective banning orders imposed by the Pubwatch group. The designated premises supervisor must ensure that any individual subject to a collective banning order by the Pubwatch group is not allowed permitted to enter (where possible) or remain on the premises. If a banned individual enters or attempts to enter the premises and attempts to remove them are unsuccessful, the designated premises supervisor must ensure that the police are contacted and asked to assist in removing the individual.

(iii) Shares information with other members of the Pubwatch group. Whenever a banned individual is refused entry or removed from the premise, the designated premises supervisor must ensure that the other members of the pubwatch group are informed as soon as practicable.

(iv) The designated premises supervisor must ensure that all members of staff are made aware of all individuals who are currently banned by the Pubwatch scheme. Staff must be regularly updated by the designated premises supervisor whenever individuals are added or removed from the list of banned persons.

Door Age Policy

No persons under the age of 18 to be allowed entry to the premises at any time when it is open and operating.

Doors & Windows

To prevent noise nuisance, all windows and doors at the premise must be kept closed at any time when regulated entertainment, live music (amplified or unamplified), recorded music or any other type of entertainment (amplified or unamplified) is being performed at the premise, except to allow people to enter or exit.

Entertainment to be Inaudible

Noise generated by regulated entertainment, live music (amplified or unamplified), recorded music or any other type of entertainment (amplified or unamplified) must be unlikely to cause a public nuisance within any noise sensitive premises in the immediate vicinity. inaudible at the nearest noise sensitive location.

Perimeter Inspections

The Designated Premises Supervisor must ensure that perimeter inspections are undertaken every hour when regulated entertainment, live music (amplified or unamplified), recorded music or any other type of regulated entertainment (amplified or unamplified) is taking place. These inspections must be recorded in a book which must be made available for inspection to Local Authority Officers and Greater Manchester Police on request.

Notices to Customers

Notices requesting customers to leave quietly must be displayed in a prominent position next to each entrance/exit. The Designated Premises Supervisor must ensure that customers are encouraged to keep noise to a minimum when leaving the premise.

Door Staff Policy

A Minimum 2 SIA Door Staff will be on duty on Friday and Saturday nights from 9pm until 20 minutes after close, unless otherwise agreed in writing and in advance by Greater Manchester Police. At all other times door staff will be provided in the numbers and at the times identified in line with any risk assessment associated with specific events or for specific special occasions (either nationally or locally).

The management shall produce and implement a Door Supervisor Policy ('the policy') which includes details of disciplinary procedures, and the management's expectations as to the behaviour and professionalism of the door staff. The policy will be submitted to a member of GMP's licensing team and the Licensing Manager on first implementation and following any subsequent changes to the policy.

Mr Warne informed the Panel that the parties had not been able to agree the scope and wording of a condition relating to personal licence holders. However, the addition of a condition was agreed in principle. The Premises licence holder's proposal was as follows:

A Personal Licence Holder must be on duty whenever live music (amplified or unamplified), recorded music or any other types of regulated entertainment (amplified or unamplified) are taking place. Should this not prove possible because of short notice illness, a written record, such as email, text or social media message from the personal licence holder will be kept as a record of the reason and will identify the person nominally in charge in their absence.

Mr Warne explained that the condition had been worded so that, in the ordinary course of events, a personal licence holder would need to be on duty when activities likely to mean the premises was busier (regulated entertainment) was occurring. The changing of the wording from 'on site' to 'on duty' would allow that person to carry out the perimeter checks required by the conditions without breach (they would technically be off site when doing the checks, but would, of course, still be on duty). Where an emergency might prevent a personal licence holder being on duty at these times, a paper trail record would need to be kept for the police and licensing authorities should there be any problems at the premises.

Mr Warne informed the Panel that the process for appointment of a new DPS was ongoing. Mr Knibbs confirmed this. He stated that care was being taken to appoint the best person (or ideally, couple) to take on the management of the premises going forward.

Mr Warne submitted that, having regard to all the circumstances, the imposition of conditions was sufficient to promote the licensing objectives. Mr Warne submitted that the interim step currently in place, namely, suspension of the licence should now be lifted.

Members of the Panel then retired to carefully consider the written report, representations and questions and answers during the hearing in addition to all the information provided. The Panel were accompanied by the Legal Representative and the Principal Democratic Services Officer who provided legal and procedural advice only and took no part in the decision making process.

In determining this matter, the Panel took into account all oral and written evidence, and also considered the Council's Statement of Licensing Policy, the relevant sections of the Licensing Act 2003 and Regulations made thereunder, the Guidance issued by the Secretary of State under section 182 of that Act (including the specific Guidance issued in relation to s53A), and the licensing objectives.

The Panel welcomed the discussions that had taken place between the Licence Holder, Greater Manchester Police and the Licensing Authority and noted that a number of agreed conditions had resulted from these discussions. The Panel also noted that the parties had agreed a condition in principle regarding personal licence holders but had not been able to agree the scope and wording of the condition. The Panel noted the parties respective positions.

The Panel noted that, having regard to the statutory guidance, any conditions must be appropriate and proportionate.

The Panel considered all available options and was satisfied that additional conditions would be sufficient to promote the licensing objectives in this matter. The conditions to be attached to the premises licence shall be the agreed conditions plus the following condition which reflected the wording proposed by the licence holder:

A Personal Licence Holder must be on duty whenever live music (amplified or unamplified), recorded music or any other types of regulated entertainment (amplified or unamplified) are taking place. Should this not prove possible because of short notice illness, a written record, such as email, text or social media message from the personal licence holder will be kept as a record of the reason and will identify the person nominally in charge in their absence.

The Panel was of the view that, having regard to the training requirements and the size and characteristics of the premises, the removal of the DPS and steps taken by the licence holder the above was a proportionate response to the incident on 13 July 2020.

The conditions would replace those currently listed at Annex 2 of the premises licence at paragraphs (a) to (e).

Whilst not a specific condition, closer monitoring of the premises was a common thread through the conditions imposed – the Panel expected that there will be much closer monitoring and liaison between the licence holder and authorities in the appointment of the DPS and management of the premises going forward.

Interim steps

Following the review under s53C, the licensing authority has, pursuant to s53D, reviewed the interim step in place (i.e suspension of the licence) and has considered whether it is appropriate for the promotion of the licensing objectives for the step to remain in place, or if it should be modified or withdrawn. Having regard to the promotion of the licensing objectives the Panel considered that the interim step should be modified. The interim step shall be replaced by the conditions identified above which shall remain in force until the period for appeal has elapsed or the outcome of any appeal, whichever is the later.

RESOVLED

- (i) That the agreed conditions (as detailed above) replace those currently listed at Annex 2 of the premises licence at paragraphs (a) to (e), plus the following condition**
A Personal Licence Holder must be on duty whenever live music (amplified or unamplified), recorded music or any other types of regulated entertainment (amplified or unamplified) are taking place. Should this not prove possible because of short notice illness, a written record, such as email, text or social media message from the personal licence holder will be kept as a record of the reason and will identify the person nominally in charge in their absence.
- (ii) That the interim step in place (i.e. suspension of the licence), be replaced by the conditions identified, which shall remain in force until the period for appeal has elapsed or the outcome of any appeal, whichever is the later.**
- (iii) That there be close monitoring and liaison between the licence holder and authorities in the appointment of the DPS and management of the premises going forward.**