

**Minutes of: LICENSING HEARING PANEL**

**Date of Meeting:** 5 September 2018

**Present:** Councillor T Holt (in the Chair)  
Councillors: G Keeley and A McKay

**Also in attendance:**

**Public Attendance:** Mr M McLean (Applicant)  
Mr M Cowan (Representor)  
Mr P Whur (Premises Licence Holder's Solicitor)  
Mr S Elliot (Premises Licence Holder Designated Premises Supervisor)  
Ms K Maher (Premises Licence Holder's Witness)  
Mr A Elliot (Premises Licence Holder's Witness)  
PC J Caulfield (GMP – Licensing Officer)  
Ms S Wilson (Landlord's representative)

1 member of the public was in attendance

**Apologies for Absence:** -

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**1 DECLARATIONS OF INTEREST**

No declarations of interest were made in relation to any items considered at the meeting.

**2 AN APPLICATION FROM AN INTERESTED PARTY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE SIR ROBERT PEEL, 97 SUNNY BANK RD, BURY, BL9 8ES**

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services). The application was as detailed in the report.

Representations in respect of the application were received within the appropriate period.

All written representations were contained within the written submissions provided in the report to the Panel.

All documentary evidence comprising the application, the report provided with the agenda and representations were served on all parties in advance of the hearing.

The Panel heard oral representations from the Applicant and a representor who is a resident of Sunny Bank Road, Bury and his neighbour.

The Panel asked questions of the Applicant. All parties were offered the opportunity to question the Applicant.

The Panel heard further representations from GMP's Licensing Officer PC Caulfield.

The Panel heard representations from the Premises Licence Holder's Solicitor. The Panel and all parties were offered the opportunity to question the Premises Licence Holder and his representative.

Both parties were offered the opportunity to sum up their case.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in April 2018

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

## **FINDINGS**

The following facts were found:

- The Premises Licence in respect of the Sir Robert Peel is held by Mr Steven Elliot and Kirsty Maher (the PLH's), As at the date of the Panel hearing, Mr Steven Elliot is the Designated Premises Supervisor.
- Prior to the date of the Panel hearing was Ms Kirsty Maher.
- During the period from September 2015 there have been incidents connected with the licensed premises affecting neighbouring residents, including the following:-
  1. Noise nuisance
  2. Patrons sitting outside the premises on the outside seating area till late
  3. Taxis revving engines and beeping their horns

4. Anti-social behaviour with police involvement
  5. Emptying of bottles into the bins after midnight
  6. Patrons urinating outside the premises
- On 21 December 2017 there was noise and anti-social behaviour emanating from the premise.
  - On the evening of 24 December until 2am on 25 December 2017 there was noise and antisocial behaviour emanating from the premises.
  - On 31 May 2018 the Applicant complained about noise and antisocial behaviour emanating from the premises and the PLH agreed to meet to attempt mediation with residents.
  - A meeting took place with the PLH and local residents including the Applicant on 7 June 2018, during which the PLH made commitments to deal with noise and antisocial behaviour emanating from the premises.
  - On 28 June 2018 a fight took place involving patrons from the premises resulting in noise and antisocial behaviour emanating from the premises.
  - On 7 July 2018 a further fight took place involving patrons from the premises resulting in noise and antisocial behaviour emanating from the premises. GMP attended the premises on this occasion which resulted in two crimes being recorded for an affray and an assault.
  - There was no CCTV coverage of the front entrance and the footage that was available was of a poor quality.
  - The licensed premises has a large outdoor seating area at the front and side, as well as a smoking area to the rear, with doors enabling access and egress at the front and rear.

## **DECISION**

The Panel returned to the Hearing room to give its decision.

All of the evidence was considered with care and it was established that having understood the request for review and equally understanding the representations made, on balance, the Panel found there were causes for concern so far as the promotion of the following licensing objectives were concerned;

- the Prevention of Crime and Disorder
- Public Safety
- Prevention of public nuisance

The Panel were satisfied based on the evidence before it, that the incidents referred to by the Applicant and his witness and by GMP had taken place. The Panel was not satisfied there was the appropriate level of control and management of the premises generally and in particular outside of the premises.

Patrons were left unattended outside of the premises, not supervised when leaving, there were no clear dispersal arrangements and security staff could be seen leaving the door unattended, and there was no or inadequate CCTV to assist GMP in dealing with the incidents. These factors left the Panel with no option but to take action.

The Panel considered the merits of the case and in accordance with its duties and in light of the relevant policy and guidance considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, to vary the conditions. It therefore unanimously resolved to make the following modifications to the premises licence, so that the conditions set out in Appendix C will now read as follows:

1. The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business, such system and the positioning of cameras is to be to the Reasonable satisfaction of Greater Manchester Police. The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs/tapes/hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police/Authorised Officers of the Licensing Authority upon request. A member of staff trained in the use of the CCTV system must be available (but not necessarily at the premises) at all times that the premises are open to the public to provide copies of the data, subject to Data Protection legislation, upon request and as soon as reasonably practicable following a request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 12hrs.
2. All emergency lighting, fire exits, fire extinguishers, escape routes, fire safety equipment including fire alarms, gas and electrical equipment and installations should be regularly checked to ensure that they are properly maintained and in good working order.
3. Prominent, clear and legible notices must be displayed in all outside areas and at all exits requesting that customers respect the needs of local residents and that whilst using and/or leaving the premises, they do so quietly and at appropriate times, announcements should be made reminding customers of the above.
4. Proof of identity/age should be required and satisfied before allowing entry of person/s who appear may be under 18 years of age and who wish to purchase/consume alcohol.
5. Music and noise emanating from the premises should not be audible so as to cause nuisance inside neighbouring residences at any time. Noise levels should be regularly checked to prevent such nuisance to residents in the vicinity and such checks recorded and retained for a minimum period of 12 months and made available to the police/Authorised Officers of the

Licensing Authority upon request. Any complaints should be monitored and investigated and action taken where necessary.

6. All external doors and windows are to be kept closed except for access when live/amplified music and entertainment is taking place so as to prevent any nuisance.
7. No external; doors or windows are to be kept open after 23:00 hours save for the front door which should be closed at 22:00 save for emergency use.
8. Outside seating areas to the premises are to be closed at 22:00 hours to prevent noise nuisance to local residents. A designated smoking area to the rear will be clearly marked for use when the seating area is closed and drinking is not permitted in that area after 22:00 hours. Patrons shall be directed to the designated smoking area after 22:00 hours.
9. All waste collections from the premises must take place after 09:00 hours and before 22:00 hours.

**COUNCILLOR  
Chair**

**(Note: The meeting started at 1.00 pm and ended at 2.50 pm)**