

LICENSING SUB-COMMITTEE

4 NOVEMBER 2024

PRESENT

Councillor S. J. Haughey (in the Chair).
Councillors B. Brotherton and J. Holden

In attendance

S. Hilton	- Licensing Officer
U. Smith	- Licensing Officer
J. Parry	- Locum Litigation Lawyer
P. Coker	- Legal Officer
N. Owen	- Democratic Officer
G. Thurston	- Democratic Assistant

7. APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE UNDER S17 LICENSING ACT 2003 AT WALTON COTTAGE EDUCATION TRUST, 597 STRETFORD ROAD, OLD TRAFFORD, MANCHESTER M16 9BX

The Head of Regulatory Services submitted a report informing members of an application for the grant of a premises licence for Walton Cottage Education Trust, 597 Stretford Road, Old Trafford, Manchester, M16 9BX which had attracted representations from Environmental Health and local residents.

Representations were made against the application by Environmental Health and local residents.

RESOLVED: That the application for the grant of a premises license be rejected.

LICENSING SUB-COMMITTEE DECISION NOTICE

Sub Committee Members: Councillor S.J. Haughey (Chairperson)
Councillor J Holden
Councillor B. Brotherton

Applicant: Walton Cottage Education Trust

Type of Licence: Grant of a Premises Licence: 597 Stretford Road, Old Trafford, Manchester, M16 9BX

Representors: Local Residents
Z Pandor
Y Brown
R Pandor
Y Patel
S Nana
Z Bhana

**Licensing Sub-Committee
4 November 2024**

S Devine
M Lee
L Madge
M Patel
E Cosham
L Shaw
A Birch
M Denny
B Forde
P Flucker
K Joshua
S Sethi
K Pollard
S Salam
F Begum
B Farrell
S Patel
M Patel
K Pollard
S Burton
A Hagnazarian
S McGhee
J McKinnie
A Reynolds
G Lonsdale
C Campbell
S Agbogbe
E Brown
B Deszegi
C Hulme
J East
I Rivera
A Mulloch

Environmental Health
P Belfield

Parties Present:

Local Residents
K Pollard
M Farrell accompanying K Pollard
L Madge
M Patel
Z Pandor
Y Patel
S Nana
P Flucker
P White accompanying P Flucker
B Forde
Z Bhana
M Bhana Spectator only

**Licensing Sub-Committee
4 November 2024**

S Patel
A Birch
B Farrell accompanied by Councillor Hirst
S Sethi
Y Brown

Councillors
Councillor E Hirst
Councillor S Taylor
Councillor W Hassan

Environmental Health
P Belfield

On behalf of the Applicant
A Francis – Applicant
C Denny – Applicant’s Agent

Officers
Stacey Hilton – Licensing Officer
Ursula Smith – Licensing Officer
James Parry – Locum Litigation Lawyer
Pelumi Coker – Legal Officer
Natalie Owen – Democratic Officer
Georgia Thurston – Democratic Assistant

Date of Hearing: 04 November 2024
Time Commence: 6:30 p.m.
Time Terminated: 8:10 p.m.

LICENSING SUB-COMMITTEE DECISION

The Sub-Committee had the benefit of reading the Application and its associated documents, the licensing officer’s report and 39 objections of which 38 were from local residents and one was from a responsible authority, Environmental Health.

The Sub-Committee decided that the representations received from local residents and Environmental Health were valid representations as they related to Public Nuisance, prevention of Crime and Disorder, protection of children from harm and public safety.

At the hearing the Sub-Committee had the benefit of hearing from the Applicant’s representatives and their Agent, Representatives from the immediate locality and Councillors Hassan and Taylor who were representing Representatives from the immediate locality.

The Sub-Committee had regard to the Licensing Act 2003, the Licensing Act 2003 (Hearings) Regulations 2003, the Statutory Guidance and the Council’s Statement of Licensing Policy.

**Licensing Sub-Committee
4 November 2024**

The Sub-Committee resolved to REFUSE TO GRANT A PREMISES LICENCE.

SUB-COMMITTEE'S REASONS

The Applicant

The Applicant, the Walton Cottage Education Trust is a registered charity number 306121 whose charitable objectives are set out on the Charity Commissioners web site as being:

The provision of safe and fulfilling group play or instruction for the promotion of the education of young children and in particular to provide pre-school experience for those whose age is below the lower age limit laid down from time to time for compulsory school education.

We heard that the Trust has been in operation for many years, the Charity Commission records the initial founding declaration of trust as being dated on the 6th May 1971. It operated for many years from premises within Manchester providing pre-school assistance through the provision of play groups, however over time the Charity changed and the provision of play groups ceased. The Charity's original building was sold.

In order to attempt to revitalize the Charity the current Trustees have acquired 597 Stretford Road, the building which forms the subject of the premises licence application.

The Charity intends to offer child care services at that building between 09:00 and 17:00, however it is not currently registered with the Office for Standards in Education, Children's Services and Skills (OFSTED) to enable it to do so, although we were informed that an application has been submitted to OFSTED.

We were informed that the building has been used on one or two occasions by a partner charity for an event, which we shall refer to below.

In addition to offering childcare services, the Trustees also seek to permit the building to be used by members of the charity for social events, such as birthday parties, weddings and other significant family events. The Applicant was at pains to emphasize that these events will not be open to the public.

The Premises

597 Stretford Road, Old Trafford is a former commercial three storey building which is situated immediately to the south of the A5067 Stretford Road at its junction with Chester Road, the junction being controlled by traffic signals immediately to the north of the premises. Both roads are major arterial routes leading to and from Manchester in the east towards the Emirates Cricket and Old Trafford stadia in the west and become heavily congested during rush hours and when events are taking place at either stadium.

**Licensing Sub-Committee
4 November 2024**

There is a cycle way and pedestrian footway between the premises and the roadway. Parking restrictions prevent parking or waiting outside the premises at any time by private motor vehicles, private hire vehicles and hackney carriages. Any attempt to park outside the premises would cause a serious obstruction to the controlled junction.

There is a grassed area to the front of the premises which is separated from the pedestrian footway and the road by a brick wall and railings which prevent any form of vehicular access to or parking at the front of the premises.

The nearest tram station is Trafford Bar, which is 0.2 miles from the premises and requires a pedestrian to walk in a westerly direction alongside the Chester Road at its junction with the A5014 Talbot Road before turning into Seymour Grove.

Bus stops are situated at Trafford Bar, which would require patrons to cross Chester Road and to walk for 0.2 miles. There is a further bus stop on Henry Street which is a similar distance away.

Immediately to the rear of the premises is a tarmacked car park. The Applicants told us that this car park will not be made available for customer use during any event. The car park is surrounded by residential premises on Carver Close, Stanley Close and Stanley Court.

In order to access the car park from Chester or Talbot Road motorists are required to drive south on Carver Road, before turning into Stanley Road and Carver Close..

Carver Close is a narrow private road, which is not adopted by the Local Authority. Access is off Stanley Road and signs at the entrance to the private road indicate that the road is private property where unauthorized parking is prohibited. Nine residential properties are situated on Carver Close with entrance to the premises car park being at the far end of the road opposite the residential properties.

The area is known to suffer from nuisance caused by anti-social parking particularly during the course of events taking place during at the Emirates and Old Trafford Grounds.

The premises currently has the benefit of Class E planning consent which permits a wide range of commercial uses. We heard that there has been no formal application for planning consent to use the premises for its intended activity.

We were shown a document dated 18th August 1988 which set out the agreement between the then owners of 597 Stretford Road to each of the households on Carver Street who were each paid £8,000 to facilitate use of the car park between 07:30 and 19:30 each Monday to Friday and 07:30 to 12:30 on Saturdays. We were told that historically the building has only been used for daytime commercial activities.

The Application

**Licensing Sub-Committee
4 November 2024**

The Application contemplates all three floors of the premises being licensed, with different hours of operation being contemplated for different floors. We also heard that after considering the objections the Applicant sought to vary the application so that:

Hours Open to the Public

Monday to Wednesday	09:00 to 18:00
Thursday	09:00 to 23:30
Friday and Saturday	09:00 to 23:59

Provision of Recorded Music

Removed from the application so that no recorded music will be played after 23:00

Provision of Regulated Entertainment

Ground floor only	
Friday and Saturday	23:00 to 23:30

Additionally, we were told that this will not be amplified and will take the form of music played on an acoustic guitar, harp or violin.

Provision of Late Night Refreshment

Removed from the application.

We were told that an agreement had been reached with Environmental Health as to conditions that could be attached to the licence to prevent noise nuisance, although that objection was not formally withdrawn at the hearing before us.

We were also informed that there had been no structural alterations to the premises to reduce the impact of noise nuisance or light escaping from the premises, save for the installation of some shutters and a test of noise emitted from the televisions within the building.

We questioned the Applicant about their arrangements to restrict attendance at events to members of the Charity and their invited guests. We were told candidly that the Trustees have yet to establish how that membership scheme will be managed.

We were also advised that the Applicant proposed to restrict the capacity of the premises so that 60 persons would be able to attend the first floor and 40 on the ground floor at any one time.

The Objections

**Licensing Sub-Committee
4 November 2024**

The objections from members of the public primarily concerned:

1. The nuisance that would be created by the premises were it permitted to operate as a provider of regulated activities on the grounds of:
 - a. Noise emitted from the premises
 - b. Light emitted from the premises
 - c. Anti-social parking
 - d. Anti-social behaviour from those leaving the premises.
2. The risk to public safety of patrons making their way to and from the premises in circumstances where there was no adequate vehicular access.

Additionally, the objectors raised issues as to why a provider of pre-school educational support required a premises licence. They pointed to the advertisement of a 21st birthday party on Eventbrite, a ticketing website, where tickets were being advertised to the general public for free. Objectors also pointed to the installation of a sprung dance floor on the first floor of the premises which they suggested was inconsistent with the Charity's stated aims.

We were also told of difficulties that had arisen during a previous event held at the premises where, due to the lack of available parking disabled children had to be unloaded in the car park at the rear of the premises, one at a time because of the size of the car park and were then wheeled to the disabled access to the building at the front with the vehicle than making way for another.

We heard on an incident where a resident's vehicle was damaged by an impact from a vehicle being used by a member of the premise's staff.

We received complaints of vehicles being parked across the driveways of the residents on Carver Close and of threatening and anti-social behaviour when the drivers of those vehicles were asked to move. It was conceded that there had also been bad tempered exchanges between staff at the premises and local residents over parking and other issues.

In so far as noise nuisance was concerned, we heard that the premises are so poorly insulated against noise emanating from them that residents can clearly hear what is taking place in the premises, especially the use of mobile phones.

We were also told that light emanating from the premises intrudes into neighbouring premises. The height of the building and its first and second storeys together with the size of the windows of the premises make this a particular problem, which has a particular impact to residents on the north side of Stanley Road, which is immediately to the south of the premises.

Our Determination

We do not consider that the premises are suitable for the use that is proposed within the application, and we formed the opinion that granting a licence for the

**Licensing Sub-Committee
4 November 2024**

provision of regulated activities, even on the amended basis put forward to us was incapable of promoting the licensing objectives on the grounds that:

1. The location of the premises is such that there is no adequate provision for patrons to access the premises by motor vehicle as there is no suitable place where patrons could alight from or enter motor vehicles without causing an obstruction. Similarly, there are no available facilities for parking motor vehicles within the vicinity of the premises. The absence of those facilities is such that the use of the premises for the purposes intended within the application creates and has caused nuisance and also poses risks to public safety should motorists attempt to drop or collect passengers from the front of the premises.
2. The premises are not designed and have not been adapted or modified to contain the noise and light that will be generated by the proposed activities. Whilst we recognized that the applicant had sought to modify the application to exclude amplified music and regulated activities after 23:00, that is not capable of preventing noise nuisance occurring before that time which has the capacity to cause serious nuisance to a significant number of local residents for significant periods of time.
3. We are reinforced in the view that the building is not fit for the intended purpose by the absence of appropriate planning consent for the use of the building in that way. Whilst the grant of planning consent or otherwise is not necessarily a matter for this sub-committee the absence of such consent prevents us from relying on the opinions of appropriately qualified individuals that the building is fit for its intended purpose.
4. We also took into account the agreement between the building's owners and the residents of Carver Close that made it clear that the building has only ever been used for what may reasonably be termed as usual business hours. Whilst again it is not for use to enforce those covenants, they do serve to reinforce our view that the building is not fit for its intended purpose in its current form and the Applicant did nothing to persuade us to the contrary. In such circumstances we were persuaded that extending the opening hours of the building will cause considerable nuisance to the residents of Carver Close in particular who will be directly impacted by staff coming and going to the premises car park.

Additionally, we consider that the use of the building for the provision of regulated activities was likely to cause risks to anti-social behaviour by those making their way to and from the premises in the absence of being able to be delivered to them, and in consequence granting a licence would not promote the prevention of crime and disorder or public safety on the grounds that:

1. Patrons of the premises would be required to walk along major arterial routes to access any form of transportation in circumstances which are wholly different and more dangerous than that which is encountered in town centre venues which have proximate access to public transport from pedestrian walkways or establishments with adequate pick up and drop off

**Licensing Sub-Committee
4 November 2024**

facilities. That creates a foreseeable risk of pedestrians colliding with motor vehicles with the associated risks of death or serious injury,

2. The area in which the premises are situated has experience of anti-social behaviour by those making their way from licensed premises to available public transport which includes minor acts of vandalism and urinating in gardens and public places which causes considerable nuisance to residents and detriment to their enjoyment of the area.
3. We noted that the Applicant had identified that in order to reduce those risks it was necessary to restrict attendance at the premises to members of the Charity and their invited guests, however we learnt that no adequate system that was capable of delivering that objective has been devised by the Trustees.

We are also required to consider the protection of children. We noted a distinction between the Charity's objectives, namely the provision of services to children below the age of compulsory school age and the provision of regulated activities which by necessity is for the benefit of those over the age of 18. We were told that the Charity has not provided activities for those under school age for some time, but when it does it will not provide those activities and regulated activities at the same time.

Whilst it is a matter for the Charity Commissioner to consider whether the Trustees are acting within the Charity's objectives by providing regulated activities under the terms of a premises licence, we were not satisfied that the arrangements that were contemplated with the application, which would permit both activities to be held in the building contemporaneously at times were adequate to promote the protection of children.

We did not consider that there were any additional conditions we could impose that would enable us to be satisfied that granting the application would promote the licensing objectives, given that the majority of our concerns arise from the unsuitability of the building and its location.

Accordingly, we determined to refuse the application for all the reasons set out above.

RIGHT OF APPEAL

The Applicant and any person who has made a valid representation in this application has a right of appeal against the decision.

Any appeal must be made to the Manchester Magistrates' Court, Crown Square, Manchester M60 1PR, email GMManMags@justice.gov.uk telephone 0330 808 4407 within 21 days from the date upon which you received notice of this decision.

Please note the Court does not have any power to extend the period in which notice of appeal must be served and that a Court Fee may be payable.

**Licensing Sub-Committee
4 November 2024**

The meeting commenced at 6:30pm and finished at 8:10pm.