

## TRAFFORD COUNCIL

**Report to:** Licensing Sub-Committee  
**Date:** 1<sup>st</sup> December 2022  
**Report for:** Decision  
**Report of:** Head of Regulatory Services

### Report Title

**RECONSIDERATION OF A REVIEW OF AN EXISTING PREMISES LICENCE –  
ASTORIA BAR AND GRILL, 32-34 FLIXTON ROAD, URMSTON, M41 5AN**

### Summary

The Manchester Magistrates' Court made an order on the 31<sup>st</sup> October 2022 remitting an appeal against the decision of the Licensing Sub-Committee in respect of the review of the premises licence held by the Astoria Bar and Grill, 32-34 Flixton Road, Urmston, M41 5AN.

The Court had heard from the premises licence holder that John Lloyd, a police licensing liaison officer had agreed that the conditions imposed by the Licensing Sub-Committee on the application of his predecessor were capable of variation.

The Premises Licence Holder rejected the proposition that the appropriate forum for resolving his complaint was by an application to vary the premises licence and sought to vary conditions, 3, 8, 13, 14 and 34, stating that he had reached agreement with Greater Manchester Police.

The court did not consider that in such circumstances it was empowered to vary those conditions as the court could not be satisfied that the decision was wrong and there was no representative of Greater Manchester Police present to confirm the nature or extent of any variation. In such circumstances the court remitted the matter back to a Licensing Sub-Committee pursuant to section 181(2)(c) of the Licensing Act 2003. No specific direction was made as to how the matter should be disposed of by the court.

In such circumstances the Licensing Sub-Committee must re-hear the matter and consider any representations that may be made by the applicant for the initial review, Greater Manchester Police, any other authorised person or responsible authority and the premises licence holder and thereafter make such a determination as it considers necessary to promote the licensing objectives which the sub-committee could have made when determining the initial review, namely to:

- modify the conditions of the licence;

- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

No application has been made by the premises licence holder to vary the premises licence to which this application relates.

### **Recommendation(s)**

The Sub-committee must, having regard to the application and any relevant representations, take such of the steps mentioned in Section 52(4) of the Licensing Act (if any) as it considers necessary for the promotion of the licensing objectives.

The steps stated in Section 52(4) are:

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

The Sub-Committee has the power in relation to steps (a) and (b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.

The Sub-Committee also have the option to take no further action or issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

Contact person for access to background papers and further information:

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## **1. BACKGROUND**

- 1.1 At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or an interested party, such as a resident, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

- 1.2 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives.
- 1.3 The licensing objectives are:
  - The prevention of crime and disorder
  - The prevention of public nuisance
  - Public safety
  - The protection of children from harm
- 1.4 Where a determination is made by a Licensing Sub-Committee, the applicant, the premises licence holder or any other person who made representations during the review process may appeal to a magistrates' court.
- 1.5 On appeal a magistrates' court may:
  - dismiss the appeal,
  - substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
  - remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

However, the court can only substitute a decision made by a Licensing Sub-Committee having taken account of the decision and any related policy and having concluded that the decision of the Licensing Sub-Committee was wrong.

- 1.6 Where a Licensing Sub-Committee's decision is appealed, any variation of the premises licence does not take effect until such time as the appeal proceedings have been disposed of.
- 1.7 The delay in the hearing of the appeal before the magistrates' court was occasioned by delays that are inherent within the court system.

## **2. APPLICATION**

- 2.1 The original application for review, the representations made during the review and the decision notice are appended to this report.

## **3. THE ORIGINAL DETERMINATION**

- 3.1 On February 3, 2022 the Licensing Sub-Committee determined:

The Sub-Committee decided that the application by Greater Manchester Police for a review is a valid application and relates to the prevention of crime and disorder and public safety.

The Sub-Committee required the Licence Holder to produce their Drugs Policy, Refusal Policy, Dispersal Policy, CCTV Policy, Training Policy and any other policies required of them by GMP, to PC Packer within 48 hours of the Sub-Committee meeting. The Licence Holder then has 21 days to comply with any amendments to these policies required by the Police Licensing Officer.

The Sub-Committee's decision is to include additional conditions as follows, to take effect under s52 at the end of the period given for appealing (21 days or if the decision is appealed against, the time the appeal is disposed of).

### Additional Conditions

#### General Conditions

1. Removal of the current door team "Securitite" to be replaced with a door security company who are members of the 'Approved Contractor Status Scheme 'ACS managed by the Security Industry Authority (SIA).
2. Notify the police and relevant authorities of the details of the ACS approved contractor Status Company when appointed and any changes made in the future.
3. No less than 5 door staff in operation on the premises each Friday, Saturday and any day prior to a bank holiday, Christmas Eve, Boxing Day and New Year's Eve, and no less than 3 door staff in operation each Sunday, until 30 minutes after the terminal hour.
4. A dress code to include no caps to be worn inside the premises and any hoodies to be worn with the hood down.
5. The rear door leading to a delivery yard to be a fire exit only and not to be used for any other purpose.
6. There to be no furniture or table and chairs to the front external area after 21.00 hours.
7. No alcohol or refreshments can be consumed in any external area after 21.00 hours. No glassware or bottles may be taken in any external area.
8. Polycarbonate vessels to be used on a Friday, Saturday and Sunday and any day prior to a bank holiday, Christmas Eve, Boxing Day and New Year's Eve and to be risk assessed at all other times
9. A personal licence holder will be on duty on the premises at all times from 18.00 hours on Friday, Saturday and Sunday and any day prior to a bank holiday, Christmas Eve, Boxing Day and New Year's Eve until 30 minutes after the terminal hour.
10. A direct telephone number for the manager of the premises shall be available at all times to the public whilst the premises are in operation.
11. The premises licence holder shall ensure that staff at the premises are trained in respect of licensing legislation, responsible retailing, refusal of service and challenge 25 as befits their particular roles.
12. The premises licence holder shall maintain a dispersal policy dealing with matters pertaining to dispersal of customers from the premises. Door staff shall ensure customers do not congregate outside the premises whilst the premises are in

operation. A copy of the policy shall be kept at the premises and produced for inspection at the request of police or authorised officers

#### Licensable Activity

13. There shall be no admittance or re-admittance to the premises after 22.45 hours.
14. The premises to operate a strict no under 21's policy on a Friday, Saturday and Sunday and any day prior to a bank holiday, Christmas Eve, Boxing Day and New Year's Eve and there shall be no under 21's on the premises from 21.00 hours until close of business except where licensable activities cease at 23.00 hours.

#### Search Policy

15. A search policy shall be in place and will include procedures for the confiscation of prohibited articles such as drugs and weapons. Searches will be conducted at the discretion of SIA registered door staff. Search policy to include random searching.

#### CCTV

16. The premises shall maintain a comprehensive CCTV system on the licensed premises.
17. CCTV cameras cover internal and external areas of the Premises and all areas where customers have legitimate access (Excluding Toilets).
18. One CCTV camera is specifically positioned to capture facial images of any persons entering the Premises at the main entrance and all other entrances where searches may be undertaken, the searches of patrons will be captured on the CCTV camera.
19. All areas are sufficiently illuminated for the purposes of the recording of CCTV images.
20. All CCTV recorded images have sufficient clarity/quality/definition to enable facial recognition to an evidential standard.
21. CCTV images are retained in an unedited format for a period of 31 consecutive days.
22. Any person left in charge of the Premises is trained in the use of any such CCTV equipment and is able to produce/download/burn CCTV images to an evidential standard.
23. CCTV is maintained on a regular basis and kept in good working order at all times and images shall be produced to the Police or Authorised Licensing Officers (Trafford Council Licensing Service) immediately upon request.
24. CCTV checked daily and a written record to be kept of such checks. If found not to be in good working order to notify the police and the Licensing Authority, and rectify the fault within 3 days.

25. The CCTV system records images at all times that any member of the public is at or on the Premises. For the purpose of this condition a "member of the public" is defined as is any person other than the DPS, Premises Licence Holder, Spouse, Partner or Employee thereof.
26. A TV monitor to be placed at the entrance relaying live images of all persons entering the Premises to the patrons.

#### Notices

27. Posters, no smaller than A4 size, are clearly and prominently displayed at the entrance and exit of the Premises stating that CCTV is in operation and that images are being captured for the purposes of crime prevention and public safety.
28. Posters no smaller than A4 size clearly and prominently displayed stating that bag searches are undertaken.
29. Posters no smaller than A4 size, clearly and prominently displayed stating Premises operate a zero tolerance policy to drugs

#### Drugs

30. If any individual is found to be in possession of a small amount of drugs for personal use following a search, the SIA registered supervisor conducting the search will advise the individual that the drugs in question will not be returned to them and that the drugs will be handed to the police for destruction.
31. The drugs seizure will be captured on the CCTV, in accordance with the CCTV condition herein.
32. Following this the date, time and name of the person who seized the drugs, together with the suspected type of drug, will be recorded in a 'Drugs Book' to be kept on the Premises and then secured within a safe on the Premises.
33. Police Officers will attend on an agreed weekly or fortnightly basis to collect any drugs from the safe for destruction, and the Officers will sign the 'Drugs Book' to confirm the drugs have been removed from the Premises and handed to the Police.

#### Door Supervisors

34. A minimum of 5 SIA licensed door supervisors shall be on duty at the premises on Friday, Saturday and on any day prior to a bank holiday, Christmas Eve, Boxing Day, and New Year's Eve. Two SIA licensed door staff to be on duty from 19.00 hours and a further 3 from 21.00 hours. Each Sunday at least two door staff to be on duty from 19.00 hours and a further one from 21.00 hours.
35. At least two of the licensed door supervisors and the manager on duty at any time shall wear body worn cameras which must be in operation at all times.
36. The premises licence holder shall risk assess the need for and the numbers of SIA licensed door supervisors required on any other night or at any other time.

37. SIA licensed door supervisors to be in radio communication at all times with the premises management staff.
38. Prior to any "designated sporting event" the premises licence holder shall ensure that a written risk assessment is undertaken assessing the need for and the numbers of SIA licensed door supervisors needed on the day of the event.
39. At least 2 SIA licensed door supervisors shall be on duty at all times at the front of the premises from 19.00 hours with at least one additional licenced door supervisors from 21.00 until 30 minutes after the last customer has left the premises.
40. Search and ID checks to be conducted within view of the CCTV camera which will be positioned at the entrance when door supervisors are on duty.
41. On departure two members of the door team to be responsible for departure of internal elements of the Premises and will undertake the departure in a controlled manner.
42. The door supervisors to all be in radio communication with one another
43. The door supervisors will encourage patrons to leave the area and encourage the use of taxi's and walking home to avoid groups congregating.
44. The Premises Licence Holder shall ensure that a record of all SIA Door Supervisors employed at the premises is kept and which includes the following details:
  - a. Full name and date of birth
  - b. 16 digit SIA badge number
  - c. Dates and times employed
45. This record, which may be electronic, shall be made available to the Police Licensing Team or Authorised Officers on request.
46. The premises will operate a search policy, including the use of search wands, from 21:00 on a Friday, Saturday and Sunday and any day prior to a bank holiday, Christmas Eve, Boxing Day and New Year's Eve, and/or at such times when SIA licensed door supervisors are on duty (except where licensable activities cease at 23.00 hours) which will be operated by SIA licensed door supervisors and monitored by the premises CCTV system.
47. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests
48. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police. It must be completed within 24 hours of the incident and will record the following:
  - all crimes reported to the venue
  - all ejections of patrons
  - any complaints received concerning crime and disorder

- any incidents of disorder
  - all seizures of drugs or offensive weapons
  - any faults in the CCTV system, searching equipment or scanning equipment
  - any visit by a relevant authority or emergency service
49. In the event that a serious assault is committed on the premises or in the immediate vicinity of the premises (or appears to have been so committed) the management will immediately ensure that:
- The police (and, where appropriate, the Ambulance Service) are called without delay;
  - All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises
50. The Premises Licence Holder/DPS shall invite the Police Licensing Team to meet once every quarter to discuss any issues (if any) pertaining to operation of the premises.

#### Public Safety

51. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
52. The Premises Licence Holder shall operate a strict "no drugs" policy at the premises with notices advising customers of the policy clearly displayed at the entrance to the Premises.
53. The premises holder shall have in place a clear and detailed dispersal policy for the premises which all door supervisors and staff will be trained so that they are aware and undertake the process whenever the premises are open to the public.

#### The Protection of Children from Harm

54. Any child under the age of 18 years must be accompanied by an adult/parent, with no child under the age of 16 allowed at the premises beyond 20.00 hours

#### Conditions agreed with the Council's Pollution and Housing Team and Trading Standards

55. External windows to the front of the premises to be closed at 10pm Friday and Saturday nights (or any other time when a DJ is present).
56. Condition 4 of Annex 2 be removed from the licence and replaced with "Noise from music and associated sources (including DJ's and amplified voices) must not be audible to such an extent that it constitutes a nuisance at any noise sensitive properties".



57. Operate the Challenge 25 scheme to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
58. Display prominent signage indicating at the entrance to the premises and in all areas where alcohol is located for sale that the Challenge 25 scheme is in operation.
59. Maintain a record at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying a reasonable time of a request by a Trading Standards and/or Police officer.
60. Provide training, at least once a year, to existing staff, on the law relating to underage sales of alcohol including Challenge 25 policy, and training for all new staff on the sale of age restricted products.
61. To keep written records of all training provided in respect to the law relating to underage sales of alcohol. Staff to sign and date records to confirm that the training has been received and understood. These records must be produced immediately on request to Trading standards and/or Police officers

#### SUB-COMMITTEE'S REASONS FOR REACHING ITS DECISION AND THE DETAILS OF THE SCHEDULED REVIEW HEARING

The Sub-Committee is required to ensure that the Licensing Objectives are met.

The Sub-Committee is satisfied that their decision promotes the Objectives of the prevention of crime and disorder and public safety.

The Sub-Committee is satisfied that there have been several incidents, at the premises over the past months which have compromised public safety and the prevention of crime and disorder.

The Sub-Committee is satisfied that the additional conditions are necessary to prevent crime and disorder and protect the public within the premises and in the immediate vicinity around the entrance and exit.

The Sub-Committee has balanced the interests of the licence holder with the promotion of the licensing objectives of public safety and prevention of crime and disorder.

- 3.2 During the appeal proceedings, the Premises Licence Holder rejected the proposition that the appropriate forum for resolving his complaint was by an application to vary the premises licence and sought to vary conditions, 3, 8, 13, 14 and 34, stating that he had reached agreement with Greater Manchester Police.

## **4. KEY ISSUES**

- 4.1 The grounds for review and any representations must relate to one or more of the licensing objectives and must be relevant. Representations from interested parties may not be frivolous, vexatious or a repetition.
- 4.2 The Council will consider requests for a review of an existing premises licence if representations are made from the following:
- A Responsible Authority such as the Police and Fire Authority; or
  - Any other person
- 4.3 The Council will expect anybody requesting a review to produce evidence to support allegations that one or more of these objectives are not being met.
- 4.4 The Sub-Committee should consider the relevance of the ground or grounds for review and any representations.
- 4.5 The Sub-Committee should consider whether or not any appropriate pre-review warnings have been given and/or any mediation taken place.

## **5. RECOMMENDATION**

- 5.1 The Sub-Committee must, having regard to the application and any relevant representations, take such of the steps mentioned in Section 52(4) of the Licensing Act (if any) as it considers necessary for the promotion of the licensing objectives.
- 5.2 The steps stated in Section 52(4) are:
- to modify the conditions of the licence;
  - to exclude a licensable activity from the scope of the licence;
  - to remove the designated premises supervisor;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 5.3 The Sub-Committee has the power in relation to steps (a) and (b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.
- 5.4 The Sub-Committee also have the option to leave the licence in its existing state and/or issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

ATTACHED

Appendix 1 – Licensing Sub-committee Report – Astoria Review – 03/02/2022  
Appendix A – Greater Manchester Police - Application for Review

Appendix B – Greater Manchester Police - Evidence Bundle  
Appendix C – Greater Manchester Police - Supplementary Evidence  
Appendix D – Representation from the Council’s Pollution and Housing Team  
Appendix E – Representation from Trading Standards  
Appendix F - Proposed Additional Conditions – Greater Manchester Police  
Appendix G – Proposed Amended/Additional Conditions – Pollution and Housing Team  
Appendix H – Proposed Additional Conditions – Trading Standards  
Appendix I – Section 182 Guidance - Section 11 – Reviews - pages 89-94  
Appendix J - Covid-19 Regulations for Licenced Premises March 2020 - January 2022