

Committee(s): Licensing Sub-Committee	Hearing Date(s): 09 February 2023	Item no.
Subject	Licensing Act 2003 - Public Hearing in Respect of an Application for the Grant of a Premises Licence	
Name of Premises	Boxhall	
Address of Premises	Metropolitan Arcade, Liverpool Street, EC2M 7PD	
Report of: Juliemma McLoughlin – Executive Director Environment	Public / Non-Public	
Ward (if appropriate): Bishopsgate		

1. Introduction and Purpose

- 1.1. The purpose of this sub-committee is to consider and determine, by public hearing, an application for the grant of a premises licence under the provisions of the Licensing Act 2003, taking into consideration the representations of responsible authorities, as detailed in paragraph 3, together with policy considerations detailed in paragraph 7 of this report.
- 1.2. The decision of the sub-committee must be made with a view to promoting one or more of the four licensing objectives, namely:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm

2. Summary of Application

- 2.1. An application made by:
- Boxpark Trading Limited
Diplocks Yard
73 North Street
Brighton
BN1 1YD**

was received by the City of London licensing authority on 16 December 2022 for the grant of a premises licence in respect of the premises:

**Boxhall
Metropolitan Arcade
Liverpool Street
EC2M 7PD**

- 2.2. Full details of the application can be seen as Appendix 1.
- 2.3. The proposed application is to facilitate a premises licence to allow the sale of alcohol, regulated entertainment and late-night refreshment for numerous units operating collectively as a bar, food and social hub.
- 2.4. The application seeks permission for:
 - a) the sale of alcohol for consumption on and off the premises,
 - b) regulated entertainment in the form of films, live music, recorded music, performance of dance, and anything of a similar description to live music, recorded music or performance of dance (similar to e, f, g)
 - c) the provision of late-night refreshment
- 2.5. The hours applied for each activity in the original application are shown in column 3 of the table below. On 06 January 2023, the applicant informed the Licensing team that the alcohol sales hours on the application form were detailed incorrectly, and that the terminal hour for this licensable activity should be 23:30 hours. This clarification can be seen as Appendix 1 (a) and is reflected in column 2 of the table below. Non-standard timings have been sought to permit extended hours for all named licensable activities on Sundays prior to a Bank Holiday Monday and New Year's Eve going into New Year's day. These non-standard timings are shown in column 4 of the table below.

<u>Activity</u>	<u>Proposed licence after amendment</u>	<u>Proposed licence in original application</u>	<u>Proposed non-standard timings</u>
Supply of alcohol for consumption on and off the premises	Mon–Sun 08:00-23:30	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0200 the morning following
Provision of Films	Mon–Sun 08:00-00:00	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0230 the morning following
Provision of Live Music	Mon–Sun 08:00-00:00	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0230 the morning following
Provision of Recorded Music	Mon–Sun 08:00-00:00	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0230 the morning following
Provision of Performances of Dance	Mon–Sun 08:00-00:00	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0230 the morning following
Anything of a similar description to that falling within (e), (f) or (g)	Mon–Sun 08:00-00:00	Mon–Sun 08:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0800 to 0230 the morning following
Late Night Refreshment	Mon–Sun 23:00-00:00	Mon–Sun 23:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 23:00 to 02:30 the morning following
Opening Hours	Mon–Sun 07:00-00:00	Mon–Sun 07:00-00:00	Sunday prior to a Bank Holiday Monday and New Year’s Eve going into New Year’s Day) 0700 to 0230

3. Representations from Responsible Authorities

3.1. There are 2 representations from responsible authorities namely, the Police and Environmental Health Pollution team. The representations are against the granting of the licence on the basis that if granted it will undermine one or more of the licensing objectives, namely prevention of crime & disorder (in respect of the Police representation), and prevention of public nuisance (in respect of the Environmental Health representation).

3.2. The representations can be seen in full as Appendix 2 (a) and 2 (b).

- 3.3. The attempts at resolution from all sides has seen some conditions agreed, as detailed in paragraph 4. The main point of contention with the Police representation is around the wording of the ‘no promoted events’ condition. The main point of contention with the Environmental Health representation is their requirement for no music on the roof terrace after 21:00 hours, and the applicant’s assertion that a restrictive condition to that effect is not necessary given the conditions already proposed by themselves in relation to noise nuisance, as detailed in paragraph 4 and referenced in Appendix 3.
- 3.4. There are no representations from ‘other persons’ in respect of this application.

4. Conditions

- 4.1. The operating schedule submitted with the application suggests steps intended to be taken to promote one or more of the four licensing objectives. Conditions that are consistent with the steps described in the operating schedule and appropriate for the promotion of the licensing objectives can be included on the premises licence. A summary of such conditions is attached as Appendix 3. Where the condition has the same effect as one from the Corporation’s pool of model conditions, this has been indicated in the summary.
- 4.2. During the period for representations conditions were also agreed between the applicant and the City of London Police, and, separately, between the applicant and the City of London Environmental Health Pollution team. These conditions are detailed in Appendix 3.
- 4.3. Conditions proposed by City of London Police and Environmental Health but not agreed by the applicant are also detailed in Appendix 3.

5. Licensing History of Premises

- 5.1. This is a new application for a premises licence in this location with no previous licensing history. That being the case there are no historic complaints recorded against the premises.

6. Map and Plans

- 6.1. Maps showing the location of the premises, and a document detailing terminal hour for alcohol sales and late night refreshment, are attached as Appendix 4 (a) and 4 (b).
- 6.2. The plans of the premises can be seen as Appendix 5.

7. Policy Considerations

- 7.1. In carrying out its licensing functions, the Licensing Authority must have regard to its statement of licensing policy and any statutory guidance issued under s 182 of the Licensing Act 2003.

City of London Corporation's Statement of Licensing Policy (2022)

- 7.2. The following pages/sections/paragraphs of the City of London Corporation's Statement of Licensing Policy are particularly applicable to this application.
 - a) Pages 15-17 address the licensing objective 'The prevention of crime and disorder' and pages 22-25 address the licensing objective 'The prevention of public nuisance'.
 - b) Paragraph 92 states the need to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers.
 - c) Paragraph 92 also states an overriding policy principle namely, that each application will be determined on its individual merits.
 - d) Certain aspects of paragraphs 97 – 99 are relevant as they address the need of care when controlling noise from those persons leaving a premises – which can apply equally to staff at the premises.
 - e) Paragraph 104 considers various factors that should be taken into account when considering whether any licensable activity should be permitted.
 - f) Paragraphs 138-144 (Section 13) state the City of London Corporation's policy on setting conditions which may be applicable dependant on the step(s) taken by members as stated in paragraph nine of this report.

Statutory Guidance

7.3. The following sections/paragraphs of the statutory guidance issued under S182 of the Licensing Act 2003 are particularly applicable to this application (revised December 2022):

- a) Chapter 2 of the guidance covers the four licensing objectives. In particular, paragraph 2.15 states that it is, ‘...*important that in considering the promotion of [the public nuisance licensing objective, licensing authorities] focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable.*’ Also, paragraph 2.16 indicates that the prevention of public nuisance could, in appropriate circumstances include, ‘*the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.*’
- b) Chapter 10 refers to conditions attached to premises licences with paragraph 10.10 stating that, ‘*Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.*’ To which is added; ‘*Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.*’

8. Summary

8.1. The Licensing Authority has a duty under the Licensing Act 2003 to promote the licensing objectives. Each objective has equal importance. In carrying out its licensing functions, the licensing authority must also have regard to its Statement of Licensing Policy, any statutory guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The City of London Corporation must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the City of London.

9. Options

9.1. The Sub-committee must, having regard to the representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- a) grant the licence subject to any conditions consistent with the operating schedule modified to such extent as the Sub-committee considers appropriate for the promotion of the licensing objectives and include the mandatory conditions contained in Ss. 19-21 of the Licensing Act 2003;
- b) exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) to refuse to specify a person in the licence as the designated premises supervisor;
- d) reject the application

For the purposes of paragraph 9.1(i) conditions consistent with the operating schedule are modified if any of them are altered or omitted or any new condition is added

9.2. Where a licensing authority takes one or more of the steps stated in paragraph 9.1 above the applicant, or the holder of the licence and/or a person who made relevant representations in relation to the application, may appeal the decision to the Magistrates' Court. Any appeal must be commenced within 21 days following notification of the decision to the appellant by the licensing authority.

10. Recommendation

10.1. It is therefore RECOMMENDED that your Sub-Committee determine this application for the grant of a premises licence in accordance with paragraph 9 of this report.

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Background Papers

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy (revised Jan 2022)	MCP	3rd Floor Guild Hall
Statutory Guidance – ‘Revised Guidance Issued Under Section 182 Of The Licensing Act 2003’. (April 2018)		Statutory Guidance