

BOXPARK LIMITED
BOXHALL METROPOLITAN ARCADE
LIVERPOOL STREET
LONDON
EC2M 7PD
APPLICATION FOR PREMISES LICENCE

OUTLINE SUBMISSIONS ON BEHALF OF THE APPLICANT

1. These submissions are provided to the Licensing (Hearing) Sub Committee on behalf the Applicant, Boxpark Limited, in support of an application for a new premises licence at the Metropolitan Arcade, Liverpool Street, London, EC2M 7PD (“the Premises”).

2. These submissions are structured as follows:
 - The Applicant
 - The Premises
 - The Application, including pre application consultation
 - The Police
 - The EHO
 - The Issue
 - Summary

The Applicant

3. Boxpark Limited currently trade three units across London in Croydon, Shoreditch and Wembley. The first site, in Shoreditch, opened in 2011 and was the world’s first “pop up” mall, within a purpose-built shipping container village, providing a range of food and retail outlets. Croydon followed in 2016, adjacent to East Croydon rail station, and in 2018 Boxpark Wembley, situated on Olympic Way, opened.

4. In 2022, a licence was obtained for the first Boxpark outside of London – to be named Boxhall. These premises are a redevelopment of former wharf warehouses in the heart of the Bristol night-time economy. The premises are due to open in 2023.

5. Planning permission has recently been obtained – on 31 January 2023 - for a further Boxpark at Cains Brewery, Liverpool. An application for a premises licence for this site has just been submitted.
6. Each premise is supported by a variety of head office functions including property management; compliance; marketing; HR; training; health and safety; compliance.
7. In due course a manager will be appointed who will, amongst other things, be a personal licence holder and will be appointed as the DPS.
8. The ethos behind each of the Boxpark premises is to provide high quality food serviced by a broad range of independent street food traders (for example Boxpark Croydon is the home to 30 street food restaurants providing a diverse range of food). The bars in each of the venues are run and operated by Boxpark, as will be the case at the Premises.
9. This is supplemented by a wide variety of entertainment from live music, interactive pub quizzes, vintage, and craft markets. Whatever the event the management and control of the premises always remains with Boxpark Limited.
10. In a very short period of time, Boxpark has won a number of design and operational awards (Retail Week, New London Architecture, Restaurant Marketer and Innovator, RIBA) and was named in the Sunday Times Fast Track 100 for two years in succession in 2018 and 2019.
11. Boxpark is also proud of the contribution it has made to charities across its estate having supported, for example, the Mayor of Croydon's Camp-out charity fundraiser, supporting Challenge 100 Focus, encouraging local business to donate food to support the homeless, and in February 2022 raising in excess of £29,000 for Martlets Hospice following a special one-off concert by Fat Boy Slim at their venue in Croydon.

The Premises

12. Metropolitan Arcade is situated between Liverpool Street and Old Broad Street in City of London. It is a single storey arcade, built in 1911-12 and was sympathetically reconstructed in 1994-95. It has two entrances, on Liverpool Street and Old Broad Street and is a key pedestrian link to both streets as well as an entrance to the underground.
13. It is the intention of Boxpark to bring the Premises back in to use providing outlets for 15 independent street food vendors and employment for up to 200 people

The Application

14. The application can be found at pages 15 – 27 of the Report to the Committee, with proposed plans at pages 51 – 53.

15. The Premises is located over two levels – ground floor and a covered roof terrace. Two bars on the ground floor are complimented by 15 kitchens that will be operated by the independent street food traders. On the covered roof terrace there is a further bar and seating.

16. In advance of submitting the application Boxpark engaged in pre application consultation with the licensing authority and relevant stakeholders, including the Police and Environmental Health Officer (EHO). As a consequence of this the application was submitted and, following discussions with the Police, seeks permission for the following:

- Opening Hours

Monday to Sunday 0700 to 0000

- Sale of alcohol

Monday to Sunday 0800 to 2330

- Regulated entertainment

Monday to Sunday 0800 to 0000

- Late Night refreshment

Monday to Sunday 2300 to 0000

- Non-Standard timings

On Sunday prior to a bank holiday (and New Years Eve going into New Years day)

Opening from 0700 to 0230

Sale of alcohol starting at 0800 and ending at 0200;

Provision for regulated entertainment commencing at 0800 and ending at 0230

Late night refreshment to be provided from 2300 to 0230

17. A summary of the hours can be found at page 9 of the Report to the Licensing Committee.

18. The hours proposed by the Applicant are more restricted than those granted for other licensed premises in the locality and identified in the Report to the Licensing Committee (see Appendix 4 (ii) at page 49).
19. In support of the application a comprehensive schedule of conditions (28 in total) was offered. These can be found at pages 34 – 38 of the Report.
20. The application was advertised in the local press and on the premises in accordance with the statutory requirements.

The Police

21. During the consultation process, both in pre application and the statutory consultation process, the following additional conditions were agreed with the Police
 - *The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested*
 - *Promoted events will not be held at the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is (independent of the licensee) promoted to the general public*
22. We understand that based on the above, the representation from the Police is to be withdrawn

The EHO

23. The EHO was party to the pre application consultation discussions and was, of course, part of the statutory consultation process in their role as one of the responsible authorities.
24. During the statutory consultation process, the following additional conditions were agreed with the EHO

- *Windows and the roof on the roof terrace shall be kept closed after 22:00.*
- *All (digital) music and sound on the terrace shall be controlled through a DSP (digital sound processing) device with limiter, the limits shall be set and maintained at a level agreed with Environmental Health*

25. These can be found at page 46 of the report

The Issues

26. There is one outstanding representation to the Application from the EHO.

27. It is fair to say that the EHO does not object to the principle of the licence being granted based on the hours requested, and as set out above. Their concern relates to the conditions that are to attach to the licence, and to one discreet issue

28. The EHO has suggested that the following condition be attached to the licence (Page 46 of the Report)

No amplified, recorded, or acoustic music on the roof terrace shall be played after 21:00 on one day until 08:00 the next day

This is not accepted by the Applicant.

29. The Applicant has already offered a significant series of conditions in relation to noise as set out below (see pages 36 and 37 of the Report)

13. Clear notices displayed at all points where customers leave the building must instruct them to respect the needs of local residents and leave the premises and the area quietly.

15. A written dispersal policy agreed by City of London Police Licensing shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in an orderly fashion.

16. Amplified music shall not be played at a level that will cause unreasonable disturbance to the occupants of any properties in the vicinity.

17. A Noise Management Plan shall identify how noise arising from all sources of noise including plant, pa systems etc. shall be effectively controlled so as to minimise the risk of public nuisance and how any complaints of noise will be dealt with.

18. The manager, licence holder or other competent person shall carry out observations in the vicinity of the property, on at least hourly intervals between 9pm and close of business where entertainment is being provided in order to establish whether there is a noise breakout from the premises.

19. If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance.

20. A record of such observations shall be kept in a book for that purpose, such a book shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise breakout and any action taken to reduce noise breakout. Such book to be made available at all times upon request to an authorised officer of the Licensing Authority or a constable.

21. The Licence holder shall make available a contact telephone number to nearby residents and the City of London Licensing Team to be used in the event of complaints arising.

30. The Applicant has also agreed the following additional condition with the EHO as set out above and in the Report at page 46
- All (digital) music and sound on the terrace shall be controlled through a DSP (digital sound processing) device with limiter, the limits shall be set and maintained at a level agreed with Environmental Health

31. To add further conditions to the licence limiting the operation of the premises in the absence of any evidence would be disproportionate and unnecessary.

32. If any issues are established in the future, the Applicant has shown, through the licensing process, that they are willing to engage with the relevant stakeholders within the City of London to resolve any issues that may arise

Summary

33. There is only one question of significance here – will this application, by this applicant, at these premises, be likely to undermine the licensing objectives?

34. The National Guidance issued under s.182 of the Licensing Act 2003 states as follows

The Authority's determination should be evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve

35. As the National Guidance states:

"14.36 ... If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved."

36. The Licensing Sub-Committee can only really make such a finding based on admissible material submitted to it. What the authority cannot be asked to do is speculate, as the High Court make clear in R (Daniel Thwaites) v Wirral Borough Magistrates Court [2008] EWHC 838 (Admin). It can, however, draw fair inferences from the material it does have.

37. It is submitted that, on the evidence presented, the Committee should grant the application because:

- (i) Boxpark is an experienced, award winning and competent operator of licensed premises
- (ii) Each premise is provided with head office support
- (iii) The Applicant will be investing significantly in the building to bring the Premises back to life
- (iv) The applicant will be employing in the region for 200 people
- (v) The Applicant will be providing an opportunity and outlet for 15 independent street food trading operators
- (vi) The application is for hours well within those granted for other Premises in the locality
- (vii) The Application is supported by a comprehensive schedule of conditions
- (viii) Whilst the EHO has made a representation to the Application they do not oppose the principle of the granting of the licence

- (ix) The Applicant has provided a comprehensive list of conditions that attend to the issue of noise that include the commissioning of a noise management plan, notices and the installation of a digital sound processing unit
- (x) If any issues of noise break out are established, there are appropriate conditions proposed to deal with these issues
- (xi) The Applicant has shown a willingness during the pre application and in the statutory consultation process to engage with the regulatory authorities, and will continue to do so in the event that any issues of relating to noise are established once the premises are trading

38. Finally the application is consistent with the City of London Corporation "Destination City" vision providing an new and vibrant destination for workers, visitors and residents alike.

39. In all the circumstances, the granting of this licence, to this applicant, with the proposed conditions, including those that have been agreed during the consultation process at these premises is unlikely to undermine the licensing objectives and, in the circumstances, the application should be granted as requested.

Ewen Macgregor

Partner TLT

8 February 2023