

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON THURSDAY 9 FEBRUARY 2023 AT 1.45PM

APPLICANT: Boxpark Trading Limited
PREMISES: Boxhall Metropolitan Arcade, Liverpool Street, EC2M 7PD

Sub-committee:

Deputy Peter Dunphy (Chair)
Brendan Barns
Ceri Wilkins

Officers:

Town Clerk – Chloe Ainsworth
Comptroller and City Solicitor – Frank Marchione
Environment Department – Aggie Minas / Robert Breese

Representing the applicant:

Ewen Macgregor, Solicitor Advocate (TLT Solicitors)
Ben McLaughlin, Chief Executive Officer (Boxpark Trading Limited)

Making representation:

Siobhan Crossby, Environmental Health Officer (Environmental Health, Pollution)

Licensing Act 2003 (Hearings) Regulations 2005

A public hearing was held at 1.45pm to consider the representations submitted in respect of a new licensing application for Boxhall Metropolitan Arcade, Liverpool Street, EC2M 7PD.

The Sub-Committee had before it the following documents:

Hearing Procedure
Report of the Executive Director Environment
Appendix 1: Copy of Application
Appendix 1i: Amendment to the Application
Appendix 2i: Representation from Environmental Health
Appendix 2ii: Representation from City of London Police (COLP)

Appendix 3: Conditions Consistent with the Operating Schedule
Appendix 4i: Location Map
Appendix 4ii: Terminal Hours
Appendix 5: Plan of Premises
Appendix 6: Boxhall Metropolitan Arcade Representation
Appendix 7: Email from City of London Police withdrawing representation

The hearing commenced at 1.45pm.

At the commencement of the hearing, the Chair introduced the Panel.

The Sub-Committee first invited submissions from Mr Macgregor. Mr Macgregor explained that he would be relying on the written submissions at Appendix 6. He confirmed that he and the applicant had engaged with the City Licensing Authority and proposed 28 conditions that they would be content to accept on the premises licence. Mr Macgregor informed the Sub-Committee that the City Licensing Authority had condensed these into 13 targeted conditions. As well as these conditions, Mr Macgregor informed the Sub-Committee that two conditions had been agreed with the COLP and a further two conditions had been agreed with the City of London Environmental Health.

Mr Macgregor informed the Sub-Committee that the sole area of dispute was a condition proposed by Environmental Health, but not agreed to by the applicant, as set out below:

'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.'

Mr Macgregor stated that it was unnecessary for the above condition to be attached to the premises licence for a number of reasons. First, Mr Macgregor stated that as the Live Music Act 2012 deregulated live music until 23:00 the condition would not be enforceable. Secondly, Mr Macgregor noted the City Licensing Authority's approach of minimising the number of conditions placed on premises licences and stated that imposing an unenforceable condition would not be consistent with this approach. Finally, Mr Macgregor argued that restricting the playing of music after 21:00 presupposed the reason for any hypothetical future complaints.

Ms Crosby, representing Environmental Health, acknowledged that the condition in dispute would be suspended before 23:00, but stated that it would be enforceable after. In Ms Crosby's view the condition was necessary as the premises was in a highly residential area. Furthermore, given the arcade was currently closed at weekends and did not have a roof terrace open to the public, Ms Crosby stated that the proposed business represented a significant change to its use. As such, Ms Crosby was concerned that without this condition the premises was likely to give rise to public nuisance.

Ms Crosby informed the Sub-Committee that if the condition was attached to the premises licence, then should complaints be received about the premises in the future a review hearing would be able to enforce the condition.

In response to a query from a Member of the Sub-Committee, the Panel was informed that the roof terrace would utilise less than a quarter of the space of the whole arcade and that it would be a space for customers to drink and dine in. The Panel was also informed that the roof terrace was fully enclosable.

In response to another query, the Sub-Committee was informed that there would be no promoted events on the premises.

The Chair of the Sub-Committee invited those making representations to make their closing remarks. Mr Macgregor stated that if there were issues with the premises then there is a process in place by which the conditions on the premises licence can be reviewed. He stated that he and the applicant had engaged with the City Licensing Authority and that this was not the time to implement an unenforceable condition.

A further query was raised in relation to the capacity of the roof terrace. The Sub-Committee was informed that it could house approximately 250 people. Ms Crosby reiterated her concerns that the premises would give rise to public nuisance and asked Members to consider implementing a condition prohibiting music on the roof terrace from 23:00.

The Sub-Committee retired at 2.15pm and considered the application and carefully deliberated upon the representations submitted in writing and orally at the hearing by those making representations and the applicant. The full decision was circulated in a decision letter following the conclusion of the hearing.

The meeting ended at 2.15pm

Chairman

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