

Minutes of:**LICENSING HEARING PANEL****Date of Meeting:**

27 September 2018

Present:Councillor D Jones (in the Chair)
Councillors: T Holt and G Keeley**Also in attendance:****Public Attendance:**Boxed Limited Premises Licence Holder
represented by Mr David Banks
Alex O'Farrell (Enforcement Officer)
One member of public was in attendance
Representative – Bury Times**Apologies for Absence:**

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1 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003, IN RESPECT OF WHICH A REPRESENTATION HAS BEEN MADE BY A RESPONSIBLE AUTHORITY

Prior to the Hearing the Authority received an Application to vary a Premises Licence under section 34 of the Licensing Act 2003 in relation to Crowded House, 626 Manchester Road, Bury, BL9 9SU in respect of which a representation has been received from a Responsible Authority.

The Application was as detailed in the report which was presented to the Members of the Panel by the Licensing Unit Manager, which explained that a Premises Licence in respect of this premises has been in force since 2 April 2015. The Premises Licence Holder is Boxed Limited of which the registered address is 626 Manchester Road, Bury, BL9 9SU and Mrs Johanne Banks of Helmshore, has been the appointed Designated Premises Supervisor (DPS) since the grant of the Licence.

The Application was for a variation of the current Premises Licence under Part 3 of the Licensing Act 2003 for the purpose of removing two conditions from the operating schedule which were proposed by Greater Manchester Police in their capacity as Responsible Authority at the grant of the licence and were agreed by the Applicant at the time.

The conditions which the Applicant wished to remove are:

3/ Customers will be prevented from leaving the interior of the premises with alcoholic drinks in glasses or bottles.

4/ Tables and chairs and any other outdoor furniture located outside the premises, must be removed and stored away in a safe area not accessible to the public each evening, no later than 1900 hrs.

The Applicant had complied with all the necessary procedural requirements laid down by the Act.

Representations in respect of the application were received within the appropriate period from the Licensing Authority in its capacity as a Responsible Authority.

All written representations were contained within the written submissions provided in the report to the Panel.

All documentary evidence comprising the application, the report provided with the agenda and representations were served on all parties in advance of the hearing.

The Panel heard oral representation from Mr Banks, the representative of Boxed Limited, the Premises Licence Holder.

The Panel asked questions of Mr Banks and all parties were offered the opportunity to question the representative.

The Panel heard oral representations from the Licensing Enforcement Officer.

The Panel asked questions of the Officer and all parties were offered the opportunity to question the representative.

All parties were offered the opportunity to sum up their case.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in April 2018

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions,

respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

- A Premises Licence in respect of Crowded House has been in force since 2 April 2015 and the Premises Licence Holder is Boxed Limited of which the registered address is 626 Manchester Road, Bury.
- In relation to the additional licensing conditions proposed by Greater Manchester Police, the Premises Licence Holder agreed that these should be attached to the Premises Licence.
- At the time of granting of the licence the premises were not open and had not previously been operated by the current Premises Licence Holder.
- In May 2016 the Licensing Service received a complaint from a resident alleging a failure to adhere to Condition 4/ of its Premises Licence in relation to all outdoor furniture. The Premises Licence Holder was contacted by a Licensing Officer and verbally warned of the need to adhere to the conditions stipulated within the Licence.
- A further complaint was lodged by the same neighbour in August 2016 again in relation to the outdoor furniture. Again the Premises Licence Holder was contacted by Licensing Officer and warned.
- Another complaint from a resident was received in October 2017 again regarding the outdoor furniture and also the use of noisy roller shutters at 05.30 hours. Again the Premises Licence Holder was contacted by Licensing Officer and warned.
- In November 2017, an out of hours compliance check confirmed that the business had removed the furniture from outside the premises after 19.00 hours.
- Further complaints were received in February 2018 from the same resident in relation to the outside furniture and other noise. A Licensing Officer had also observed the furniture outside after 19.00 hours.
- Again in July 2018 two complaints we received in relation to furniture being left outside the premises beyond 19.00 hours. This was also observed by Licensing Officers as late as 21.30 hours and subsequently a written warning was issued to the Designated Premises Supervisor, Mrs Banks.
- The Premises Licence Holder admitted there had been occasions when the furniture had been left outside after 19.00 hours.
- The outside furniture was now stored in a box close to it and fake turf had been placed under the furniture to reduce noise emanating from its removal.
- There was no evidence of anti-social behaviour or nuisance associated with people using the outside furniture.
- The premises regularly close at 22.00 hours during the week and 23.00 hours at weekends.

DECISION

The evidence was considered with care and following the evidence of all parties, having understood the application and equally understanding the representations made, the Panel therefore unanimously decided it reasonable, balanced,

appropriate and proportionate, based on all of the evidence and in accordance with its duties, in relation to conditions 3 and 4 on the Premises Licence, that in order to promote the licensing objectives set out in the Licensing Act 2003, in particular the prevention of public nuisance, that the conditions would be varied to read as follows:

3. Customers will be prevented from leaving the interior of the premises with alcoholic drinks in glasses or bottles after 22.00 hours
4. Tables and Chairs and any other outdoor furniture located outside the premises, must be removed, and stored away in a safe area not accessible to the public each evening, no later than 22.00 hours.

COUNCILLOR
Chair

(Note: The meeting started at 1.00 pm and ended at 2.00 pm)