

Committee: <b>Licensing Sub Committee</b>	Date	Classification <b>Unrestricted</b>	Report No.	Agenda Item No.
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Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>	Title: <b>Licensing Act 2003 Application for a new Premise Licence for Point a Hotel, 13-15 Folgate Street, London, E1 6BX</b>
Originating Officer: <b>Corinne Holland</b> <b>Licensing Officer</b>	Ward affected: <b>Spitalfields and Banglatown</b>

## 1.0 Summary

Applicant:	<b>QMK Liverpool Street Limited</b>
Name and Address of Premises:	<b>Point a Hotel 13-15 Folgate Street London E1 6BX</b>
Licence sought:	<b>Licensing Act 2003 Sale by retail of Alcohol (on sales) Provision of Regulated Entertainment (recorded music)</b>
Objectors:	<b>Licensing Authority Environmental Health Residents</b>

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

**LOCAL GOVERNMENT 2000 (Section 97)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File  
Section 182 Guidance  
LBTH Licensing Policy

Corinne Holland  
020 7364 3986

### 3.0 **Background**

- 3.1 This is an application for a new Premise Licence for Point a Hotel, 13-15 Folgate Street, London, E1 6BX. This premises falls within the Brick Lane Cumulative Impact Area.
- 3.2 The applicant has described the premises as: *A hotel applying for the ground floor & restaurant area. There are no external areas for consumption of food & drink and there will be no mini bars in the hotel rooms.*
- 3.3 A copy of the application is shown in **Appendix 1**.
- 3.4 The hours applied for are as follows:

#### **Sale of Alcohol (on sales only)**

Monday – Thursday 11:00 – 23:00

Friday – Saturday 11:00 – 00:00 hours (midnight)

Sunday 11:00 – 22:30 hours

#### **Provision of regulated entertainment (recorded music - indoors)**

Monday – Thursday 11:00 – 23:00

Friday – Saturday 11:00 – 00:00 hours (midnight)

Sunday 11:00 – 22:30 hours

#### **Opening times**

24 hours

### 4.0 **Location and Nature of the premises**

- 4.1 The site plan of the venue is included as **Appendix 2**.
- 4.2 Maps showing the vicinity are included as **Appendix 3**.
- 4.3 Photographs of the premises are included in **Appendix 4**.
- 4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

### 5.0 **Licensing Policy and Government Advice**

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1<sup>st</sup> November 2018.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in August 2023.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

## 6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 29**
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.
- 6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following.

Licensing Authority	Appendix 6
Environmental Health	Appendix 7
Annila Abbas	Appendix 8
Abdinasir Abdi	Appendix 9
Alex Flynn	Appendix 10
Alex Gordon Shute	Appendix 11

Alan Williams	Appendix 12
Carline Conaty	Appendix 13
Caroline Hamilton	Appendix 14
Cheryl Lawrence	Appendix 15
Christopher Lloyd (SPIRE)	Appendix 16
Faith Edwards	Appendix 17
Glen Leeder & Giacomo Baraldi	Appendix 18
Jasper Joffe	Appendix 19
Jeannie Lowen	Appendix 20
Mark Fisher (SSRA)	Appendix 21
Martin Lane	Appendix 22
Mona Rahman	Appendix 23
John & Sandy Critchley	Appendix 24
Suzi Godson	Appendix 25
Zoe Hudson	Appendix 26
Particia Lloyd	Appendix 27

6.9 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Public Health
- Home office (Immigration Enforcement)

6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.11 The objections relate to:

- Public nuisance
- Crime and Disorder
- CIA

6.12 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet licensing objective of the prevention of public nuisance and the prevention of crime and disorder.

6.13 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.14 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

## **7.0 Conditions consistent with Operating Schedule**

1. The Premises Licence holder shall ensure that CCTV cameras and recorders are installed at the main entrance to the premises and are of a standard acceptable to and approved by the Police. The CCTV shall be maintained in good working order at all times the premises is open to the public, be fully operational covering both internal and external areas of the reception area which the public have access.
  - a) The CCTV camera views are not to be obstructed.
  - b) At least one CCTV camera is to be placed no more than seven feet above floor level near to the exit in order to capture clear facial images of all persons leaving the premises.
  - c) The medium on which CCTV images are recorded shall be of evidential quality, stored securely; shall be retained for a period of 31 days and be available for inspection by the Police or Local Authority upon request.
  - d) At all times when the premises are open for the purposes of licensable activities a suitably trained member of staff shall be present to assist the Police or an authorised officer in obtaining the CCTV footage.
  - e) The facility to transfer the images to a compatible removable format shall be held on the premises.
2. The sale of alcohol is restricted to hotel residents and their bona fide guests.
3. The premises licence holder shall risk assess the need for SIA security staff and take advice from police in the case of any local special event or specific concerns regarding trading.

4. When the venue is open for licensable activities , the toilets are to be checked by staff at least every two (2) hours and these checks are to be documented on each visit.
5. Notices shall be displayed within the premises warning customers about personal thefts; and to be vigilant.
6. Staff shall be fully trained on safety issues including fire safety and management shall carry out regular inspections of the premises.
7. The premises Licence holder shall ensure that all litter and waste outside the premises (and connected to the premises) is removed and disposed of with other waste from the premises
8. The premises Licence holder shall operate a Challenge 25 age verification policy.

## 8.0 Conditions Agreed/Requested by Responsible Authority

### Conditions agreed with the police – **Appendix 28**

1. *A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record must show the outcome of the person who was intoxicated. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.*
2. *An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:*
  - a) *all crimes reported to the venue;*
  - b) *all ejections of patrons;*
  - c) *any complaints received concerning crime and disorder*
  - d) *any incidents of disorder;*
  - e) *all seizures of drugs or offensive weapons;*
  - f) *any faults in the CCTV system, searching equipment or scanning equipment;*
  - g) *any refusal of the sale of alcohol;*
  - h) *any visit by a relevant authority or emergency service.*
3. *In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:*
  - a) *the police (and, where appropriate, the London Ambulance Service) are called without delay;*

- b) *all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;*
  - c) *the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and*
  - d) *such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.*
4. *Operate a Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.*

## 9.0 **Licensing Officer Comments**

9.1 The Live Music Act removed licensing requirements for the following:

- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
- unamplified live music between 8am and 11pm in all venues.
- Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.

9.2 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

### 9.3 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the

lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).

- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
- ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
- ❖ Mandatory conditions must be imposed (10.25) and censorship avoided (10.17).
- ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.58)
- ❖ Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)

9.4 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.

9.5 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

- 9.6 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.7 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 9.8 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.9 In **Appendices 29 - 38** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

#### 10.0 **Legal Comments**

10.1 The Council's legal officer will give advice at the hearing.

#### 11.0 **Finance Comments**

11.1 There are no financial implications in this report.

#### 12.0 **Appendices**

<b>Appendix 1</b>	A copy of the application
<b>Appendix 2</b>	Site Plan
<b>Appendix 3</b>	Maps of the surrounding area
<b>Appendix 4</b>	Photographs of the premises
<b>Appendix 5</b>	Other licensed venues in the area
<b>Appendix 6</b>	Representations from LA
<b>Appendix 7</b>	Representation from EH

<b>Appendix 8 -27</b>	Resident representations
<b>Appendix 28</b>	Condition agreed with Police
<b>Appendix 29</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 30</b>	Licensing Officer comments on public nuisance
<b>Appendix 31</b>	S182 advice on public nuisance
<b>Appendix 32</b>	Licensing Officer comments on crime & disorder
<b>Appendix 33</b>	S182 advice on crime & disorder
<b>Appendix 34</b>	Licensing Officer comments on protection of children from harm
<b>Appendix 35</b>	S182 advice on protection of children from harm
<b>Appendix 36</b>	Cumulative Impact Area
<b>Appendix 37</b>	Licensing Policy relating to hours of trading
<b>Appendix 38</b>	Planning