

## LICENSING COMMITTEE

<b>Report Title</b>	On Blackheath, Blackheath Common, SE3		
<b>Key Decision</b>	No		Item No. 3
<b>Ward</b>	Blackheath		
<b>Contributors</b>	Community Services – Licensing Authority Head of Law		
<b>Class</b>	Part 1	Date: 2 April 2019	

**Proposal:** Premises Licence Variation Application

**Legislation:** Licensing Act 2003

**Premises:** On Blackheath, Blackheath Common, SE3  
Part borders: Goffers Road, Shooters Hill Road, A2, Hare and Billet Road, Wat Tyler Rd SE3

**Applicants:** On Blackheath Ltd

### **This is an application for a Variation of the Premises Licence**

#### **1. Current Licence Status**

The premises are currently licensed for the sale of alcohol and regulated entertainment and outlined below:

**Second full weekend in September of each year only:**

#### **Regulated entertainment**

##### Films

1300 - 2230 Saturday

1300 - 2200 Sunday

##### Live Music

1300 - 2230 Saturday

1300 - 2200 Sunday

##### Recorded Music

1200 – 2230 Saturday

1200 – 2200 Sunday

##### Performance of Dance

1300 - 2230 Saturday

1300 - 2200 Sunday

## **Sale by retail of alcohol for consumption on the premises**

1200 – 2200 Saturday

1200 – 2130 Sunday

### **2. Particulars of Application Applied for**

To Change the applicable dates of the event to:

**“Any consecutive two day period between 1 July and 31 September in any calendar year, with the dates for each year to be agreed at least six months in advance of the date of the event with the licensing authority, the Councils ESAG (Events Safety Advisory Group) and the appropriate executive director (agreement to be issued by the Licensing Authority)” AND the addition of a new site plan.**

### **3. Outline of representations received**

- 3.1 The application for the variation of the premises licence was received on 13 February 2019 and sent to all the Responsible Authorities.
- 3.2 There were no representations from any responsible authorities but representations were received from 8 interested parties, 1 of which was in support of the application. A further 3 were received from residents within relatively close proximity to the premises; 1 from the Westcombe Park Society; 2 from Greenwich Council Officers; and 1 from a Greenwich Councillor.
- 3.3 The representations received from interested parties, have been examined by Officers and are considered not to be vexatious or frivolous. These representations were all received within the specified time.
- 3.4 The application for the new premises licence has been advertised in accordance with Regulation 25; an advert in a local newspaper and notices prominently displayed on the perimeter of the premises every 50 metres for a period of 28 consecutive days. The last date for receiving representations was the 12 March 2019.
- 3.5 The objections to the application are on public nuisance grounds due to concerns over noise from the event and potential impact that a change of date of the event could cause.
- 3.6 Conditions have been agreed between the applicant and the Licensing Authority and Police. The application has also been discussed at the Event Safety and Advisory Group on the 20 November 2018 and 19 March 2019.

### **4. Legal & Human Rights Implications**

- 4.1 The Licensing authority is a public authority under the Human Rights Act 1998. Therefore the licensing authority is required to act compatibly with the convention rights in the exercise of their functions. Article 6 (1) of the Convention provides that

everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.

- 4.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The right to hold a licence is a qualified rather than an absolute right. Therefore the right to hold a licence may be interfered with if it affects the interests of local residents or others. Such interference may be justified if it is necessary and proportionate to promote the licensing objectives.

## **5. Equalities Implications**

- 5.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 5.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

- 5.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above above.

- 5.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 5.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

5.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

5.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## **6. Application for the Variation of a Premises Licence**

6.1 The steps available to the Licensing Authority:

- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application.

6.2 An appeal may be made against the decision to the Magistrates Court within 21 days.

### Background Papers

<u>Short Title of</u>	<u>Date</u>	<u>Appendix</u>
<u>Document</u>		
Application for Variation	13 February 2019	
Representations	As dated in attached documents	
Agreed conditions	11 March 2019	

Should you require any further information on this report please contact Lisa Hooper, Licensing Authority Officer on 02083146324