

LICENSING COMMITTEE

Report Title	New Cross Inn		
Key Decision	No		Item No. 4
Ward	New Cross		
Contributors	Community Services – Licensing Authority Head of Law		
Class	Part 1	Date: 10 September 2019	

Proposal: Premises Licence Variation Application

Legislation: Licensing Act 2003

Premises: New Cross Inn 323 New Cross Road SE14 6AS

Applicants: Nelco 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:

Sale of Alcohol, Films, Live Music & Recorded Music

10.00 - 02.00 Monday

10:00 - 02:00 Tuesday

10:00 - 02:00 Wednesday

10:00 - 02:00 Thursday

10:00 - 02:00 Friday

10:00 - 02:00 Saturday

12:00 - 00:30 Sunday

Late Night Refreshment

23:00 – 02:00 Monday

23:00 – 02:00 Tuesday

23:00 – 02:00 Wednesday

23:00 – 02:00 Thursday

23:00 – 02:00 Friday

23:00 – 02:00 Saturday

23:00 – 00:30 Sunday

Seasonal Variation:

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Years day.

An Additional hour to the standard and on-standard timings on the day when British summertime commences.

2. Particulars of Application Applied for

To extend the sale of alcohol, provision of regulated entertainment and late night refreshment Monday to Thursday until 0300 the following morning; Friday and Saturday until 0400 the following morning and Sunday until 0200 the following morning; to also extend all licensable activities on any day before a Bank Holiday until 0400 the following morning; opening hours to be extended Monday to Thursday until 0330 the following morning; Friday and Saturday until 0430 the following morning; Sunday until 0230; and any day before a Bank Holiday until 0430 the following morning. Also to amend/remove conditions.

3. Outline of representations received

- 3.1 The application for the variation of the premises licence was received on 15 July 2019 and sent to all the Responsible Authorities.
- 3.2 There were no representations from any responsible authorities but a representation was received from one interested party.
- 3.3 The representation received from the interested party, has been examined by Officers and is considered not to be vexatious or frivolous. The representation was 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 August 2019.
- 3.5 The objection to the application is on public nuisance grounds due to concerns over noise and anti-social behaviour from the premises. It is in also in a cumulative impact zone.

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.
- 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	15.7.19	

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