

LICENSING COMMITTEE

Report Title	Arch 2, Deptford Railway Station		
Key Decision	No		Item No. 3
Ward	New Cross		
Contributors	Community Services – Licensing Authority Head of Law		
Class	Part 1	Date: 31 October 2019	

Proposal: **New application for a Premises Licence**

Legislation: **Licensing Act 2003**

Premises: **Arch 2, Deptford Railway Station, SE8 4NS**

Applicants: **Balcca Ltd**

This is an application for a new premises licence

1. Current Licence Status

The premises are currently not licensed.

2. Application

2.1 The application for a new premises licence was sent to all the Responsible Authorities.

The application is for following licensable activities:

Late Night Refreshment

23:00 – 00:00	Monday
23:00 – 00:00	Tuesday
23:00 – 00:00	Wednesday
23:00 – 00:00	Thursday
23:00 – 02:00	Friday
23:00 – 02:00	Saturday

Sale of Alcohol for consumption on & off the premises

10:00 – 00:00	Monday
10:00 – 00:00	Tuesday
10:00 – 00:00	Wednesday
10:00 – 00:00	Thursday
10:00 – 02:00	Friday
10:00 – 02:00	Saturday
10:00 – 23:00	Sunday

Recorded Music

10:00 – 00:00	Monday
10:00 – 00:00	Tuesday
10:00 – 00:00	Wednesday
10:00 – 00:00	Thursday
10:00 – 02:00	Friday
10:00 – 02:00	Saturday
10:00 – 23:00	Sunday

- 2.2 The application for the new premises licence has been advertised in accordance with regulation 25, an advert in a local newspaper and a notice prominently displayed at the premises for a period of 28 consecutive days. The last date for receiving representations was the 11 October 2019.

3. Outline of Representations Received

- 3.1 Five representations were received from residents within close proximity to the premises, primarily on the grounds of prevention of public nuisance.
- 3.2 The representations received have been examined by officers and are not considered to be vexatious or frivolous. These representations were received within the specified time.
- 3.3 The residents have objected primarily on the grounds of public nuisance. They are mainly concerned that the proximity of the premises to their homes may cause them nuisance in the form of noise either from music at the premises or activity of patrons at the premises. They are concerned for the hours applied for and the potential negative impact this may have on nearby residents.

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 New Premises Licence

6.1 After having regard to all representations, Members must take such steps as they consider necessary for the promotion of the licensing objectives. The licensing committee may:

- 1.) Grant the new premises licence as applied for,
- 2.) Grant the licence subject to conditions modified to such extent as the authority considers appropriate for the promotion of the licensing objectives
- 3.) Exclude from the scope of the licence any of the licensable activities to which the application relates;
- 4.) Refuse to specify a person in the licence as the designated premises supervisor;
- 5.) Refuse to grant the application.

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

Background Papers

Short Title of

Date

Document

Application

13 September 2019

Evidence / documents

5 Objection letters / emails as served

Should you require any further information on this report please contact Lisa Hooper at Licensing Services on 020 8314 6324.