

## LICENSING COMMITTEE

<b>Report Title</b>	Sugahill, 248- 250 Kirkdale, SE26 4NL	
<b>Key Decision</b>	No	Item No. 3
<b>Ward</b>	Sydenham	
<b>Contributors</b>	Community Services – Licensing Authority Head of Law	
<b>Class</b>	Part	Date: 4 December 2019

**Proposal:** Premises Licence Variation Application

**Legislation:** Licensing Act 2003

**Premises:** Sugahill, 248- 250 Kirkdale, SE26 4NL

**Applicants:** Christopher Archbold

### **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 as outlined below:

##### **Sale by retail of Alcohol for consumption on & off the premises**

17:00 – 22:00 Tuesday to Thursday

12:00 – 22:00 Friday to Sunday

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

- **Change of licensable hours**

18:00-23:00 Tuesday to Thursday

13:00-23:00 Friday to Sunday

- **Removal of current Annex 2 condition:**

*The premises shall join the Safer Lewisham Business Partnership (LBBAC) and local radio scheme if available*

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 21 November 2019.

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

- 3.1 The application for the variation of the premises licence was received on 24 October 2019 and sent to all the Responsible Authorities.
- 3.2 One representation was received from Alfene Rhodes of LBL Crime, Enforcement & Regulation Service (Environmental Noise) on the grounds of Public Nuisance. A representation was received from Cllr Tom Copley of Sydenham Ward on the grounds of Public Nuisance. Also a further two representations received from local residents within close proximity to the premises on the grounds of Public Nuisance.
- 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 objections to the application are on public nuisance grounds due to concerns over noise and music from the premises and potential impact that an extension in hours may cause on neighbouring properties.

### **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	24 October 2019	
Representations	As dated in attached documents	
Premises Licence	PL1104	

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