

LICENSING COMMITTEE

Report Title	Oregano Leaf	Licence No. PL 0992
Key Decision	No	Item No. 3
Ward	Telegraph Hill	
Contributors	Community Services – Licensing Authority Head of Law	
Class	Part 1	Date: 30 January 2019

Proposal: Premises Licence Variation

Legislation: Licensing Act 2003

Premises: Oregano Leaf 98 New Cross Road SE14 5BA

Applicants: Allahhad Momtaz 98a New Cross Road SE14 5BA

This is an application for a full variation to be considered pursuant to section 35 of the Licensing Act 2003

1. **Background**

An application for a full variation was received on 28th November 2018 in relation to extending the provision of late night refreshments from 2300 until 02:00 Monday – Thursday and 23:00 until 03:00 Friday to Sunday.

2. **Outline Grounds for Objection**

2.1 An application for the full variation of the premises licence was sent to all the Responsible Authorities. Representations were received from the Metropolitan Police and the Crime Enforcement and Regulation service in relation to the licensing objectives of the prevention of Crime and Disorder. Representations were also received from the planning authority due to planning conditions on the premises.

2.2 The application for the variation has been advertised in accordance with regulation 39, displayed prominently a notice at the premises, and at the Council's main offices for a period of 28 consecutive days. The last date for receiving representations was the 27th December 2019.

3. **Current Licence Status**

The premises are currently licensed – See attached licence

4. **Legal & Human Rights Implications**

4.1 An interested party or responsible authority can apply to the licensing authority for a full variation of a Premises Licence. The Licensing authority is required to hold a

hearing to consider the application for a full variation and any relevant representations made. The representations are required to be relevant to one or more of the licensing objectives.

- 4.2 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.
- 4.3 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 Legislation

- 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 at 12.2 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 Full variation

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;

Grant the application

Reject the whole or part of the application.

6.2 An appeal may be made against the decision to the Magistrates Court by the applicant for the variation and any persons who made a valid representation.

Background Papers

Short Title of Document

Date

Application for review

28/11/18

Licence Evidence / documents

As served

Should you require any further information on this report please contact Lisa Spall, Licensing Authority Officer on 02083148390