



Licensing Committee

Report title: The Hill Station, Telegraph Hill Community Centre, Kitto Road, London SE14 5TY

Date: 11 January 2022

Key decision: No.

Class: Part 1.

Ward(s) affected: Telegraph Hill

Contributors: Community Services – Licensing Authority, Head of Law.

Outline and recommendations

Determination of an application for a variation to a Premises Licence submitted by Jacqui Shimidzu and Louise Shimidzu.

After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

Timeline of engagement and decision-making

The Application was advertised in accordance with regulation 25 of the Licensing Act 2003.

The last day for representations was 10 December 2021.

This matter must be heard within 20 working days from the day after the last day of representations.

This is an application to vary an existing premises licence

1. Current Licence Status

The premises are currently licensed for the following activities:

Sale by retail of alcohol for consumption on and off the premises

18:00 – 23:00 Monday

18:00 – 23:00 Tuesday

18:00 – 23:00 Wednesday

18:00 – 23:00 Thursday

18:00 – 23:00 Friday
18:00 – 23:00 Saturday
18:00 – 23:00 Sunday

Provision of regulated entertainment

Films

18:00 – 23:00 Monday to Sunday
18:00 – 23:00 Tuesday
18:00 – 23:00 Wednesday
18:00 – 23:00 Thursday
18:00 – 23:00 Friday
18:00 – 23:00 Saturday
18:00 – 23:00 Sunday

Provision of regulated entertainment

Live Music

14:00 – 22:30 Monday
14:00 – 22:30 Tuesday
14:00 – 22:30 Wednesday
14:00 – 22:30 Thursday
14:00 – 22:30 Friday
14:00 – 22:30 Saturday
14:00 – 22:30 Sunday

Provision of regulated entertainment

Recorded Music

09:00 – 23:00 Monday
09:00 – 23:00 Tuesday
09:00 – 23:00 Wednesday
09:00 – 23:00 Thursday
09:00 – 23:00 Friday
09:00 – 23:00 Saturday
09:00 – 23:00 Sunday

Provision of regulated entertainment

Anything of a similar description

12:00 – 22:00 Monday
12:00 – 22:00 Tuesday
12:00 – 22:00 Wednesday
12:00 – 22:00 Thursday
12:00 – 22:00 Friday
12:00 – 22:00 Saturday
12:00 – 22:00 Sunday

2. Application

2.1 The application to vary the existing premises licence was sent to all the Responsible Authorities.

The application is for the following variations:

- 2.2 Amend the hours for the sale by retail of alcohol (currently 1800 – 2300hrs daily) to 1000 – 2330hrs daily, with closing time 30 minutes later.
- 2.3 Remove Regulated Entertainment (live and recorded music) currently 1400 – 2230hrs and 0900 – 2300hrs respectively.
- 2.4 Remove Regulated Entertainment (similar description) currently 1200 – 2200hrs.
- 2.5 Retain Regulated Entertainment (Exhibition of Films) – currently 1800 – 2300hrs but change to 1000 – 2300hrs daily.
- 2.6 Remove Conditions in Annex 2:
 - ‘Spirits will not be served’
 - ‘Bottles not allowed outside’
 - ‘Doors to be closed while live music is taking place’
- 2.7 Two representations were received from residents within close proximity of the premises, primarily on the grounds of prevention of public nuisance. .
- 2.8 The representations received have been examined by Officers and are not considered to be vexatious or frivolous. The representations were received within the specified time.
- 2.9 The application to vary the 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 10th December 2021.

3. Outline of objections received

- 3.1 The residents have objected primarily on the grounds of prevention of public nuisance. They are mainly concerned that there will be increased noise later into the evening.
- 3.2 Preventing regular noise nuisance from occurring for residents in the vicinity of the premises has proved problematic over the last few years, the most common causes being from amplified music as well as noise from patrons in and around the premises and from the dispersal of patrons when the business shuts.
- 3.3 There is particular concern over the proposed removal of an existing condition which ensures that doors are closed whilst music is played. This is seen as vital to protecting the amenity of residents in the vicinity from nuisance caused by noise, especially given a lack of sound insulation.
- 3.3 Any disturbance which does occur is exacerbated by the topography of this part of Telegraph Hill.
- 3.4 Objections have also been raised on the suitability of a community centre becoming a venue serving alcohol throughout the day and night. In addition to this, the removal of conditions to permit bottles to be taken outside and spirits to be sold are seen as out of character with the original use of the premises as a community café.

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 Committee, bearing in mind the issues of relevance and proportionality. The Committee 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 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:

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

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

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

Background Papers

Short Title of Document

Date

Application

12 November 2021

Evidence / documents

As dated

Should you require any further information on this report please contact Lisa Spall at Licensing Services on 020 8314 8390.