

LICENSING SUB-COMMITTEE

3 March 2020

Attendance:

Councillors

Green (Chairperson)

Bentote

Gordon-Smith

Officers in attendance:

Mr I Myers – Licensing Officer

Miss C Stefanczuk – Licensing Manager

Ms C Tetstall –Licensing Solicitor

Others in attendance who did not address the meeting:

Councillor Williams

Audio recording of the meeting

A full audio recording of this meeting is available via this link:

[Full audio recording](#)

Prior to the commencement of the meeting, the Chairman announced that the meeting would be adjourned to commence at 10.30am to allow all parties to be in attendance.

1. **NEW PREMISES LICENCE – KASSIA LOUNGE, HAMBLEDON ROAD, DENMEAD, PO7 6NU**
(Report LR531)

The Chairperson welcomed all those present to the meeting:

Applicant

- Fasu Miah

Responsible Authorities

- Sara Hayes-Arter on behalf of Environmental Health, Winchester City Council

Interested Parties

- Ian Cameron

- Kevin Andreoli
- Lydia Merriman (on behalf of Denmead Parish Council)
- Mrs J Isaac
- Paula Langford-Smith

The Licensing Officer introduced the report which set out the details of the application. In summary, he explained that the application was for a New Premises Licence under Section 17 of the Licensing Act 2003 for Kassia Lounge, Hambledon Road, Denmead, Hampshire, PO7 6NU.

The Licensing Officer explained that the application described the premises as a restaurant and bar serving Indian food, seeking to provide live music, recorded music, late night refreshment, sale of alcohol (for consumption on and off the premises) and a change to opening hours, as set out in appendix 1 to the report.

The Committee was advised that Hampshire Constabulary had made a representation against the application with regard to the prevention of crime and disorder and protection of children from harm licensing objectives. During the consultation period, a number of conditions had been agreed between Hampshire Constabulary and the applicant, and the representation was subsequently withdrawn. These conditions were set out in section 5 of the report.

Furthermore, Winchester City Council's Environmental Health team had also made a representation against this application with regard to the prevention of public nuisance licensing objective. This was set out in appendix 2 to the report. The allocated Environmental Protection Officer, Winchester City Council was in attendance to address the Sub Committee in respect of this objection.

In addition, representations had been received from 26 Other Persons, raising objection to the application, primarily in relation to the prevention of public nuisance licensing objective. These representations were set out in full in appendix 3 to the report.

The Licensing Officer drew Members' attention to the revised map (appendix 4) set out on page 3 of the supplementary agenda, which had been updated and included the location of the premises and the address locations of those Other Persons who had made representations in relation to the premises.

The Sub-Committee were advised that several of the representations received made reference to the hours of use set out in the planning permission and Members were reminded that planning and licensing were separate regimes. For clarification, the Licensing Officer advised that the hours of use agreed within the planning permission were approved as follows:

Sunday to Thursday 0900 – 2230
Friday to Saturday 0900 – 2300

In conclusion, the Licensing Officer stated that if the Sub-Committee were minded to approve the application, there were conditions to consider, as set out in Section 5 of the report, including those conditions agreed by Hampshire Constabulary and the applicant (set out in italics) which the Sub-Committee could amend as appropriate to promote the licensing objectives.

In response to questions from the Sub-Committee, the Licensing Officer and the Applicant clarified that the garden area was not included within the licensable area and that live music would only take place inside the building.

At the invitation of the Chairman, the applicant, Mr Miah, addressed the Sub-Committee and outlined his background and experience in running eight reputable restaurants in Hampshire. Mr Miah confirmed the opening hours that had been permitted within the planning application and stated that once the restaurant had proved its successful operation over some time and local residents were satisfied that their concerns regarding the restaurant had been resolved, he would be able to apply to amend the opening hours to close 1130hours Sunday to Thursday and 0000 hours Friday and Saturday. Mr Miah advised that he was seeking longer operating hours within the licensing application to take account of this as a longer term aspiration for the restaurant and to prevent the need to also reapply for a change to his premises licence.

Mr Miah stated that he was aware that he must adhere to existing planning permission and that he would not be able to operate outside of the hours agreed by that process, regardless of the decision granted by the Sub Committee. He would have to resubmit an amendment to the planning application for this to be formally considered and approved prior to any changes to the operating hours taking place.

Mr Miah made reference to the opening hours of the other local businesses in the vicinity who mainly closed at 2300 hours and stated that he viewed the premises as a community restaurant and he would be happy to work with local residents to address any concerns they may have and indicated his willingness to compromise on the licensing activities he was requesting.

In respect of the operating hours for Christmas Eve and New Years Eve, Mr Miah clarified that although he had requested this to finish at 0300 hours; it was not his intention to open until this time unless there was a demand for this.

In response to questions from the Sub-Committee, Mr Miah clarified that live music takes place once a week at his other premises. The style of the live music was tailored to the venue and that as Denmead was a quiet area, it was his intention for this to take the form of a pianist or a jazz

singer at a background level. This would also be dependant on the demand of patrons. Recorded music would ordinarily be played at a background level in the absence of live music to provide an atmosphere in the restaurant. In respect of concerns regarding noise emanating from the building and to the living accommodation above, Mr Miah stated that the building had been sound proofed and fully insulated following the professional advice of a sound engineer to minimise any possible disturbance.

For clarification, the Licensing Officer referred the Sub-Committee to the guidance regarding the Deregulation Act 2015.

The Environmental Protection Officer, Winchester City Council, addressed the Sub-Committee. In summary, she advised she had initially dealt with the premises when the planning application came forward and had previously raised objection in relation to noise and odour. Following discussions with the applicant to reduce the opening hours, it was deemed acceptable on planning grounds if the revised hours agreed were adhered to. Due to the local public houses in that area closing at 2300 hours, the primary concerns with the opening hours proposed until 0100 hours on a Friday and Saturday were movement of patrons from the public houses to the premises with excessive noise levels inside and outside the premises. In addition there was concern of the setting of precedent in the area as proposed opening hours were beyond any other existing establishment in Denmead, although the improvements to internal sound proofing were now noted.

In response, the applicant stated that he did not consider that there would be an issue regarding noise in this area and that appropriate signage asking patrons to please leave quietly and have respect for neighbouring properties would be displayed. He considered that the restaurant would improve security with the presence of people in the locality which he considered would deter crime in the area.

The Chairperson then invited any interested parties to address the Committee. All the points raised were answered by the Licensing Officer and the applicant accordingly.

Ian Cameron addressed the Sub-Committee and referred Members to his representation shown on page 68 of the report which referred to the ownership of the house in Lavinia Mews which formed an enclosed space directly alongside the premises. With the agreement of the Sub-Committee and the applicant, Mr Cameron circulated photographs of the adjoining property in Lavinia Mews.

In summary, Mr Cameron's primary concerns related to the proposed extended operating hours and the use of amplified music being used in the garden at the premises. In response, the applicant provided clarification that he would not be using speakers for loud music outside of the premises. There were no plans to use the garden but that an extension to the premises had been approved by planning. It was

anticipated that bi-fold doors would be installed to the front of the premises with the possibility to open the restaurant up in the summer months allowing for a few tables to be placed outside during this period. In addition, Mr Miah also clarified that, as stipulated in the planning consent, the kitchen extraction fan system was required to be switched off at 2230 hours.

Kevin Andreoli addressed the Sub-Committee and referred Members to his representation shown on page 75 of the report. He made reference to the public safety licensing objective with proposed long hours of live and recorded music which he considered would be damaging to the health and wellbeing of local residents and staff employed at the premises. In addition, he raised concerns regarding public nuisance in respect of the proposed opening hours which he stated were excessive in comparison to other businesses in the area. In conclusion, Mr Andreoli stated that he was not against the business, just the hours proposed in the application.

Lydia Merriman (representing Denmead Parish Council) addressed the Sub-Committee and referred Members to her representation shown on page 72 of the report which referred to the detrimental impact on local residents, particularly in respect of the prevention of crime and disorder and the prevention of public nuisance licensing objectives. This was due to the business operating in an area directly adjacent to residential properties. She stated that the opening hours as set out in the licensing application were at odds with the planning permission already granted and if permitted, would result in a breach of condition one of the planning application.

In response to questions, Mr Miah clarified that infrared CCTV had been installed at the premises to act as a deterrent and reduce crime and disorder in the area.

Mrs Isaac addressed the Sub-Committee and referred Members to her representation shown on page 55 of the report. She expressed concern regarding noise and odours, patrons leaving the premises into the garden area and the submission of an additional planning application requesting an extension to the opening hours which she considered would be inappropriate in this residential area.

Paula Langford-Smith addressed the Sub-Committee and referred Members to her representation shown on page 67 of the report. She stated that whilst she believed the restaurant would be a welcome addition to Denmead, she had concerns in respect of the prevention of public nuisance licensing objective due to the proposed opening hours requested. She stated that the location of the premises was in a small parade of shops in a quiet residential area where no other businesses operated beyond 2300 hours and therefore suggested it was reasonable for the licensing application to match the opening hours agreed in the planning consent.

In conclusion, Ms Langford-Smith wished to make the Sub-Committee aware that a business noise abatement notice had been issued to Kassia by Portsmouth City Council in respect of the premises in their area due to the noise of loud music which resulted in the closure of that premises.

In summing up and in response to the Licensing Officer, Mr Miah confirmed that the proposed extension formed part of the original planning application and was contained within the plan, as set out in the report.

The Sub-Committee retired to deliberate in private.

In the closing statement, the Senior Democratic Services Officer on behalf of the Chairperson stated that the Sub-Committee had carefully considered the application, the representations made by Environmental Health, the persons who made representations and the Applicant's evidence received. It had taken into account the Council's Statement of Licensing Policy, the Home Office guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee concluded that the application should be granted, with the conditions set out in paragraph 5 of the report (pages 11 to 15 of the report), with the following amendments to the operating hours on page 13 of the report, and the following amendments and an additional condition to the licensing objectives (all changes highlighted in bold below) as follows:

Operating Hours

1. The hours the premises may be used for regulated entertainment shall be:

Live or recorded music (or a combination of both) to be allowed once a week between the hours as follows, and in addition, to be permitted on Christmas Eve and New Years Eve as follows:

Live Music	Sunday to Thursday	1100 to 2300
	Friday and Saturday	1100 to 2330
	Christmas Eve	1100 to 0030
	New Years Eve	1100 to 0030
Recorded Music	Sunday to Thursday	0900 to 2300
	Friday and Saturday	0900 to 2330
	Christmas Eve	0900 to 0030
	New Years Eve	0900 to 0030

2. The hours the premises may be used for late night refreshment shall be:

Friday and Saturday	2300 to 2330
Christmas Eve	2300 to 0030
New Years Eve	2300 to 0030

3. The hours the premises may be used for the sale of alcohol (on and off the premises) shall be:

Sunday to Thursday	0900 to 2300
Friday and Saturday	0900 to 2330
Christmas Eve	0900 to 0030
New Years Eve	0900 to 0030

4. The hours the premises may open for other than Licensable Activities shall be:

Sunday to Thursday	0900 to 2330
Friday and Saturday	0900 to 0000
Christmas Eve	0900 to 0100
New Years Eve	0900 to 0100

All Licensing Objectives

Crime and Disorder

CD2: The premises licence holder shall ensure that recordable CCTV is in place when any licensable activity is taking place. This must be of a standard acceptable to the local Police. There shall be sufficient cameras to cover all primary public areas in addition to cameras covering the entrance, exit and external smoking areas.

Public Nuisance

PN1: The Premises Licence Holder shall ensure that signage requesting **customers to leave quietly** and respect neighbours is displayed at the premises.

PN3 All doors and windows to be kept closed except for access and egress when live or recorded music is being played.

The Chairperson thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision.

RESOLVED:

1. That the application be granted, subject to the conditions set out on pages 11 to 15 of the report, with the amendments to the operating hours on page 13 of the report, and the amendments and additional condition to the licensing objectives (all changes highlighted in bold below) as set out in full above, for the following reasons:

REASON

The Sub-Committee considered that the conditions as amended, strike a balance between the applicant's right to run his business and the concerns of the local community.

The meeting commenced at 10.30 am and concluded at 12.45 pm

Chairperson