

LICENSING SUB-COMMITTEE

Friday, 19 January 2024

Attendance:

Councillors

Cunningham
Achwal S

Wallace

Officers in attendance:

Carol Stefanczuk – Licensing Manager
Sajid Mahmood – Litigation Solicitor

[Full audio recording](#)

1. **TO CONFIRM A CHAIRPERSON FOR THE MEETING**

RESOLVED:

That Councillor Cunningham be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR A VARIATION OF PREMISES LICENCE - YIAYIAS, 56 ST GEORGES STREET, WINCHESTER, SO23 8AH (LR581)**

The Chairperson welcomed all those present to the meeting:

Applicant:

Paul Pyrgoudes

The Licensing Manager introduced the report which set out an application for the variation of a premises licence under section 34 of the Licensing Act 2003 for Yiayia's Restaurant, 56 St Georges Street, Winchester. The premises was currently licensed under a premises licence for the supply of alcohol for consumption on and off the premises. Monday to Saturday 0800 hours to 2300

hours and Sunday 1000 hours and 2200 hours. This application was seeking to include late night refreshment from 2300 hours to 0300 hours Monday to Sunday. The full application was set out in Appendix 1 of the report. During the consultation period, conditions had been agreed between the applicant and Hampshire Constabulary, as set out in Section 5 of the report.

The Sub-Committee were advised that no representations had been received from any of the other Responsible Authorities. One written representation had been received from 'Other Persons' as an interested party. The representation was set out in full in Appendix 2 and related to the prevention of crime and disorder, public safety and public nuisance licensing objectives. The Licensing Manager advised that the representation also referred to alleged nuisance from smoke and odours, which would be dealt with under separate legislation by Environmental Protection. Environmental Protection had confirmed that they were continuing to monitor the premises when informed of smoke, but had not identified a statutory nuisance on any visit to date.

The Sub-Committee were advised that a statement had been provided by the 'Other Persons', Catherine Brandwood, who was unable to attend the Sub-Committee in person. At the request of Catherine Brandwood, the statement was read out in full by the Licensing Manager to the Sub-Committee during the proceedings of the hearing.

It was noted that the application had been re-advertised at the premises until 28 December 2023 and published in the Hampshire Chronicle on 14 December 2023.

In conclusion, the Licensing Manager advised the Sub-Committee that, if minded to grant the application, there were conditions to consider, as set out in Section 5 of the report, which the Sub-Committee could consider and amend as appropriate to promote the licensing objectives. The Sub-Committee were reminded that they should discuss any additional conditions they may wish to consider during the hearing to enable the applicant the opportunity to respond and explain how this may affect their business operation.

In response to questions of the Sub-Committee, the Licensing Manager clarified that the supply of hot food and drink between 0500 hours and 2300 hours was not licensable, therefore the licensable activity was from 2300 hours to 0300 hours and was for take away food.

At the invitation of the Chairperson, the owner and applicant, Paul Pyrgoudes addressed the Sub-Committee to set out the application and responded to questions. For clarification, the applicant confirmed that the application was for take away food only from 2300 hours to 0300 hours and that there would be no dining on the premises from this time and that all external tables and chairs would also be removed. In addition, he clarified that there would be a frontline door supervisor Security Industry Authority (SIA) staff at the premises from 2200 hours until the closing time of the premises on Friday, Saturday and Sunday preceding a UK Bank Holiday.

During his representation, Paul Pyrgoudes stated that he would be unlikely to open late on a Sunday, unless it preceded a UK Bank Holiday. Therefore, in respect of Sundays, the applicant stated that he would not be concerned if the Sub Committee were minded to apply an additional condition seeking the retention of the hour of closure at 2300 hours on any normal Sunday, and only approve the extended hours of 2300 hours to 0300 hours for those Sundays preceding a UK Bank Holiday.

The Chairperson then invited the Licensing Manager to read out the statement submitted by Catherine Brandwood, the one 'Other Persons' who had made relevant written representation.

The Sub-Committee retired to deliberate in private.

In his closing statement, the Chairperson stated that the Sub-Committee had carefully considered the application, the representations made by Other Persons and the Applicant's evidence given at the hearing. It had taken into account the Council's Statement of Licensing Policy, the Public Sector Equality Duty, 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.

RESOLVED:

The Sub-Committee concluded that the application for a variation of the premises licence at Yiayias, 56, St Georges Street, Winchester be granted with the agreed conditions set out Section 5 of the report, with the following additional conditions set out in 1 and 2 below, and for the following reasons set out in 1 to 5 below:

1. No dine-in after 23.00hrs on any night of the week.
2. Sunday night business until 11pm except on Sundays preceding a bank holiday.

REASONS:

1. The Sub-Committee noted that the applicant recognised the concerns raised by the Hampshire Constabulary and had agreed to conditions prior to the hearing.
2. On the balance of probabilities, the Sub-Committee was satisfied that granting the application in the form of the amended application, with the additional agreed conditions, would not undermine the licensing objectives of the Prevention of Public Nuisance, Prevention Crime and Disorder, Protection of Harm and Public Safety.
3. The Sub-Committee considered the written representations on the grounds of Prevention of Crime and Disorder, Public Safety and the prevention of public nuisance. The Panel was aware that it

could not make assumptions as to any potential impact the requested application might have in relation to the licensing objectives but must reach a decision based on the evidence before it. There was no evidence which could be presented to show that granting the application would undermine the licensing objectives. The Panel noted that the Licensing Act 2003 provides an alternative mechanism for dealing with issues where a premises breaches the licensing objectives.

4. The Sub-Committee has also taken into account the relevant provisions of the Human Rights Act 1998, namely;

Article 6 – the right to a fair hearing

Article 8 - respect for private and family life

Article 1 - First Protocol – peaceful enjoyment of possessions

5. The Sub-Committee considered that in all the circumstances, the conditions offered by the applicant were reasonable and proportionate, sufficiently promoting the licensing objectives of the prevention of public Nuisance, the prevention of crime and disorder, public safety and the protection of children from harm and that the objectives would not be undermined by allowing the variation of the licence.

The Chairperson advised that all parties 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.

The meeting commenced at 2.00 pm and concluded at 3.05 pm

Chairperson