

LICENSING SUB-COMMITTEE

Thursday, 10 October 2024

Attendance:

Councillors:
Laming (Chairperson)

Morris

Wallace

Officers in attendance:

Carol Stefanczuk – Licensing Manager
Sajid Mahmood – Litigation Solicitor

[Video recording of the meeting](#)

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

RESOLVED:

That Councillor Laming be confirmed as Chairperson for the meeting.

2. **DISCLOSURE OF INTERESTS**

There were no disclosure of interests made at this meeting.

3. **APPLICATION FOR VARIATION OF PREMISES LICENCE - SUBWAY, 165 HIGH STREET, WINCHESTER, SO23 9BA (LR587)**

The Chairperson welcomed all those present to the meeting:

Applicant:

Rehan Rehman

Responsible Authorities:

PC Brian Swallow – Hampshire Constabulary (representation set out in Appendix 2 to the report)

Other Persons:

Craig Friswell – General Manager of Alfies public house (representation set out in Appendix 3 to the report)

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 Subway, 165 High Street, Winchester. The application was to offer late night refreshment (indoors only) Thursday to Saturday 2300 to 0400 the next day (application set out in Appendix 1 of the report). The premises was currently licensed under a Premises Licence for late night refreshment (indoors only); Sunday and Monday 2300 to 0000, Tuesday and Wednesday 2300 to 0100 and Thursday to Saturday 2300 to 0200. The application did not request to amend the hours for late night refreshment Sunday to Wednesday. Apart from the Mandatory Conditions, there were no premises specific conditions on the current Premises Licence.

The Licensing Manager advised that the applicant's referral to security guards at Alfies (a nearby premises) as part of their application in connection with the prevention of crime and disorder had been disregarded because any security at other licensed premises was not relevant to the current application.

The Sub-Committee were advised that a representation had been received from Hampshire Constabulary as a Responsible Authority objecting to the application on the grounds the prevention of crime and disorder, public safety and the prevention of public nuisance (representation set out in Appendix 2 of the report). One written representation had been received from "Other Persons" as an interested party (set out in Appendix 3 of the report) and related to the prevention of crime and disorder, public safety and the prevention of public nuisance.

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, Litigation and Licensing Solicitor confirmed that other premises licensing hours were not relevant to the current application.

At the invitation of the Chairperson, the applicant, Rehan Rehman addressed the Sub-Committee to set out the application and responded to questions. For clarification, the applicant advised that the premises did not rely on Alfies security guards, but that they had assisted on one occasion when a radio call was made requesting assistance. Safety and other general training was provided to staff via an online training resource operated by Subways. Rehan Rehman advised that during the requested extension to licensing hours customers could chose to eat food purchased on the premises or take it away.

As a point of clarification, the Licensing Manager advised that the radio system the applicant referred to was one provided by Winchester BID. Late night

assistance was dealt with via a request to the CCTV control room who then contacted the police if required.

At the invitation of the chairperson, PC Brian Swallow addressed the Sub-Committee to set out the police's objections to the application and proposed conditions (Appendix 2 to the report) in addition to the supporting information (Appendix 5 to the report) and responded to questions.

PC Swallow made reference to an incident that had occurred in the early hours of 29 September 2024 when Subways staff used the radio to request police attendance due to a fight taking place in the premises. The police had raised concerns about the inadequate information provided to them by the staff at the time. It was noted the police had requested the CCTV footage and were advised they could not do so until the following morning. Mr Rehman confirmed he was aware of the incident and queried why the police had not subsequently requested to view the CCTV footage. PC Swallow clarified that in these circumstances, it would be for the applicant to follow up.

PC Swallow clarified that the information submitted in Appendix 5 at page 55 of the agenda pack related to showing that the SOBe burgers business (LSM food ltd) was connected to the applicant. In response, Rehan Rehman advised that LSM food ltd was a separate business of which his wife was a director. The Litigation and Licensing Solicitor confirmed that these matters had no regard to the current licensing application under consideration.

At the invitation of the chairperson, Craig Friswell addressed the Sub-Committee to object to the variation to the licence for the reasons set out in his representation (Appendix 3 to the report) and responded to questions.

The Licensing Manager emphasised that the provisions of the Licensing Act 2003 related to the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm licensing objectives, and it was for the applicant to explain how he could achieve this. In response, Rehan Rehman confirmed that the premises already operated a CCTV system as was being proposed. In addition, he suggested that an alternative condition could be a requirement that existing staff (rather than security guards) wear body worn video (BWV) during the extended opening times,

The Sub-Committee retired to deliberate in private to consider the suggested alternative condition put forward by the applicant.

The Sub-Committee returned into open session and confirmed that no alternative condition would be considered and asked if those present wished to make any further representations. None were made at this point of the meeting.

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 Subway, 165 High Street, Winchester be granted with all the proposed conditions by Hampshire Constabulary set out in Report LR587, Appendix 2 (pages 14 to 17 of the agenda pack) and the following additional condition.

1. The Variation (extension of hours from 0200 to 0400) shall only take effect once the licence holder submits in writing, to the Licensing Authority and Hampshire Constabulary, confirmation that the conditions can be complied with and notice of intention when they intend to start operating until those times.

REASONS:

1. The Sub-Committee noted that the Applicant recognised the concerns raised by the Hampshire Constabulary and other persons.
2. On the balance of probabilities, the panel is satisfied that granting the application with the proposed conditions, would not undermine the licensing objectives of the Prevention of Public Nuisance, Prevention Crime and Disorder, Protection of Children from 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 variation 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.
4. The Sub-Committee noted that the Licensing Act 2003 provides an alternative mechanism for dealing with issues where a premises breaches the licensing objectives.
5. 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
6. The Sub-Committee considered that in all the circumstances, the proposed conditions are 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 10.00 am and concluded at 11.55 am

Chairperson