

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date:	25 April 2016
Subject:	Application under Section 34 of the Licensing Act 2003 by Avni Duka to vary the Premises licence for Picturedrome Theatre, 162 – 166 Barton Street, Gloucester, GL1 4EU.		
Report Of:	Head of Public Protection		
Wards Affected:	Barton and Tredworth		
Contact Officer:	Rebecca Tuck – Licensing and Enforcement Officer		
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Appendices:	1. Copy of application form		
	2. Plan showing layout of premises		
	3. Location plan		
	4. Copy of current Premise Licence		
	5. Copy of the representations from local residents		
	6. Copy of the representations from Responsible Authorities (Environmental Protection Gloucestershire Constabulary)		
	7. Sections 4, 5, 6, 7 and 8.2 of Gloucester City Council’s Statement of Licensing Policy		
	8. Procedure for Licensing Sub Committee		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 For members to consider an application by Avni Duka to vary an existing Premises Licence in respect of Picturedrome Theatre, 162 - 166 Barton Street, Gloucester, GL1 4EU under section 34 of the Licensing Act 2003. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

- 2.1 That members:

- (a) Consider the variation application, any relevant representations, the Licensing Objectives, the Council’s Statement of Licensing Policy and National Guidance (Section 182).
- (b) Determine the following steps it considers necessary for the promotion of the licensing objectives:

- To grant the variation application as applied for,
- To accept the variation application and modify the conditions of the licence, by altering or omitting or adding to them,
- Reject the whole or part of the application.

3.0 The Application

- 3.1 On 10th March 2016, the Licensing Team received an application from Avni Duka, to vary the existing Premises Licence at the Picturedrome Theatre.
- 3.2 The application contained all the requisite documentation including the fee and a plan of the premises. The plan is attached in **Appendix 2**.
- 3.3 It can be confirmed that the application has been advertised (A4 notice displayed on site and a Public Notice placed in the local newspaper) and that the application has been served on all Responsible Authorities.
- 3.4 A location plan is attached in **Appendix 3**
- 3.5 The applicant is applying to vary the following licensable activities:-

Licensable Activity	Current Licence	Variation Application
Retail Sale of alcohol	Everyday 12:00 to 23:00	Sunday to Wednesday 10:00 to 00:00 Thursday 10:00 to 01:00 Fridays and Saturdays 10:00 to 03:00
Live Music	Everyday 10:00 to 00:00	Thursday 10:00 to 01:00 Fridays and Saturdays 10:00 to 03:00
Performance of dance	Everyday 10:00 to 00:00	Thursday 10:00 to 01:00 Fridays and Saturdays 10:00 to 03:00

He is also applying:

- **To amend the opening times of the existing premises licence from 10:00 to Midnight everyday to 08:00 to 00:30 on Sunday to Wednesday, 08:00 to 01:30 on Thursday and 08:00 to 03:30 on Friday and Saturday.**
- **To add Non Standard Timings as follows: On Sundays preceding Bank Holiday Mondays to extend hours until 03:00 and where Christmas Day/Boxing Day does not fall on Fridays or Saturdays to extend hours until 03:00.**

- To add a new provision of Late Night Refreshment from 23:00 to Midnight on Sunday to Wednesday, Thursday 23:00 to 01:00 and Friday and Saturday 23:00 to 03:00

- To remove Annex 2, condition 1 because it is no longer relevant which states:

'All conditions attached to the converted Public Entertainment Licence issued by Gloucester City Council under the Local Government (Miscellaneous Provisions) Act 1982 are preserved as conditions attached to this licence'.

- To amend Annex 2, condition 2 which currently states:

'The maximum occupancy of the premises shall be 426 or any such other figure as may be advised in writing by Gloucestershire Fire and Rescue Services'. and replace this with *'The maximum occupancy of the premises shall be agreed with Gloucestershire Fire & Rescue Services and adhered to at all times.*

- To amend Annex 2, condition 4 which currently states:

'An alarm system will be installed and maintained in working order' and replace this with 'Fire alarm and smoke alarm systems shall be maintained in working order'.

- To change the name of the premises from The Picturedrome Theatre to the Olympus Cafe Bar.

3.5 The Picturedrome Theatre has a Premise Licence. A copy of the current Premise Licence is attached in **Appendix 4**.

4.0 Representations

4.1 During the consultation period, the variation application has resulted in 69 individual representations from local residents (Other Persons) within the meaning of the Act. Also received were three petitions containing 337 signatures.

4.2 The representations are centred around the likelihood of an increase in noise from the premises late at night and the likelihood of an increase in Crime and Disorder in the residential area as well as an increase in litter. The individual representations plus the petitions are attached in **Appendix 5**.

4.3 Representations were also received from two of the Responsible Authorities namely Gloucestershire Police and Gloucester City Council's Environmental Protection Team and are attached in **Appendix 6**.

To date the applicant has not agreed in writing to the recommended conditions of either of the responsible authorities who made representations, however a verbal agreement has been made with Matt Cloke of the EP team to reduce the hours applied for from 03:00 on Friday and Saturday nights to 01:00 until such time as further works have been undertaken to ensure the premises is fit for the purpose it is intended to be used for. The recommended conditions from the EP team can also be seen in **Appendix 6**.

4.4 The Local Authority has deemed the representations relevant under the Licensing Objectives:-

- The prevention of Crime and Disorder and
- The prevention of Public Nuisance

4.5 The applicant and those who have made representations have been given Notice of Hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

5.0 Financial Implications

5.1 There are no direct financial implications associated with this report.

6.0 Legal Implications

6.1 The Licensing Sub-Committee is asked to determine this application with a view to promotion of the Licensing Objectives which are:

- The prevention of Crime and Disorder
- Public Safety
- The prevention of Public Nuisance
- The protection of Children from Harm

6.2 In making its decision, the Licensing Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy. Members attention is drawn to Sections 4, 5, 6 and 7 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 8.2 that refers specifically to the licensing hours. This is attached in **Appendix 7**.

6.3 The Sub-Committee must also have regard to the representations made and the evidence it hears and also be satisfied that:-

- the application is properly made
- the application has given proper notice.
- the applicant has satisfied the advertising requirements.

6.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report

6.5 The Sub-Committee has powers adjourn or carry forward the hearing to additional; specified dates.

6.6 For the purposes of determining an application, a "relevant representation" means

a representation which:

- (a) Is relevant to one or more of the licensing objectives.
- (b) Is made by a responsible authority or other persons within the prescribed period.
- (c) Has not been withdrawn
- (d) If having been made by a person who is not a responsible authority, that they are not in the opinion of the Licensing Authority frivolous or vexatious.

6.7 In deciding what action, if any, it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations identify. Any action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committee decision must be necessary and proportionate.

6.8 The Sub-Committee is required to have regard to the most up to date version of the Home Secretary's Guidance when making its decision. However the Guidance does not cover every possible situation, so long as Guidance has been followed properly and reason carefully understood, the Sub-Committee may depart from it if they have to do so. Full reasons must be given for any departure from the Home Secretary's Guidance.

6.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:

- Speculating of what might happen in the absence of evidence that harm would or could happen.
- Not paying attention to Government Guidance where failing to follow it requires good reasons to be given.
- Modifying Imposing conditions that do not promote the licensing objectives.

6.10 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :

- The applicant.
- The 'other person' who made the relevant representations.
- The 'responsible authority' who made the relevant representation.

6.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as **Appendix 8**.

6.12 In considering the application, the Sub-Committee is solely performing the role of the Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application

7.0 Risk & Opportunity Management Implications

7.1 There is a right of appeal to the Magistrates Court for both the applicant and 'Other Persons'. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

8.0 People Impact Assessment (PIA):

8.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

8.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

9.0 Other Corporate Implications

Community Safety

9.1 None at this stage

Sustainability

9.2 None at this stage

Staffing & Trade Union

9.3 None at this stage

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005 Gloucester City Council Licensing Policy Statement Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (March 2015) and Daniel Thwaites v Wirral Borough Magistrates Court (2008)