

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date:	04 July 2016
Subject:	Application under Section 17 of the Licensing Act 2003 by Ioannis Karayiannis for a new Premises licence for Greek On The Docks, Unit A, Merchants Quay, The Docks, Gloucester, GL1 2ES		
Report Of:	Gill Ragon – Head of Public Protection		
Wards Affected:	Westgate		
Contact Officer:	Richard Barnett – Licensing and Enforcement officer		
	Email:	Richard.Barnett@Gloucester.gov.uk	Tel: 396311
Appendices:	<ol style="list-style-type: none">1. Copy of application form2. Plan showing layout of premises3. Location plan4. Copy of the representation from local residents5. Environmental Protection representation6. Gloucestershire Constabulary representation7. Gloucester City Council’s Licensing Policy Statement8. Procedure for Licensing Sub Committee		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider an application by Ioannis Karayiannis for a new Premises Licence in respect of Greek On The Docks at Unit A, Merchants Quay, The Docks, Gloucester, GL1 2ES. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

- 2.1 That members:

- (a) Consider the 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 application as applied for,
- To accept the application and modify the conditions of the licence, by altering or omitting or adding to them,
- To reject the whole or part of the application.

3.0 Background

- 3.1 On 10th May 2016, the Licensing Team received an application from Ioannis Karayiannis for a new Premises Licence.
- 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 for the following licensable activities:-

Licensable Activity	Days and times applied for
(15) Retail Sale of alcohol	Monday to Sunday 11:00 to 23:00
(11) Recorded music	Monday to Sunday 11:00 to 23:00

- 3.6 The applicant has applied for Live music under Non-Standard timings. The application requests live music indoors only on Special Events, Christmas Parties and Private Functions Friday and Saturday 18:00 to 22:30 and Sunday 12:00 to 18:00. The application also requests Live Music New Year's Eve from 20:00 to 02:00.
- 3.7 The applicant has listed conditions which would be attached to any Premises Licence granted. These conditions can be seen in Section 18 of the Premises Licence application form.

4.0 Representations

- 4.1 During the consultation period, the application has resulted in two representations from local residents (Other Persons) within the meaning of the Act.
- 4.2 The representations are centred around noise emanating from the premises and anti-social behaviour. The representations are attached in **Appendix 4**.
- 4.5 A representation was received from Environmental Protection by email on 27th May 2016. It was recommended the following conditions are attached to the Premises Licence if granted:-

- Doors and windows will be kept shut during live or regulated entertainment.
- The DPS shall ensure effective overall management of music volume, such as monitoring noise levels outside the premises, to ensure that noise from such activities is inaudible inside nearby noise sensitive premises.
- The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

A copy of this representation can be seen attached in **Appendix 5**.

4.6 Following the representation from Environmental Protection, the conditions listed in 4.3 above of this report were agreed by the applicant on 27th May 2016 which can also be seen in **Appendix 5**.

4.7 An email was received from the Police on 2nd June 2016. The email confirmed that the applicant had agreed to additional conditions requested by the Police and they are as follows:-

- The age scheme that you will adopt is the Challenge 25 scheme & you will display posters to that effect. Your staff will be trained regarding the Challenge 25 scheme and you will keep training records and undertake regular refresher training. You will keep a record of all refusal of sales for either under age or drunken persons.
- CCTV will be recording when the premises is trading & shall be maintained in good working condition. It will be capable of recording good quality images & storing them for a minimum of 28 days or 14 for a digital system. There should always be a member of staff available who is able to download images to disc or USB stick for Police, Council or Trading Standards officers when requested

A copy of this representation and agreement from the applicant can be seen attached in **Appendix 6**.

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

6.0 Financial Implications

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

7.0 Legal Implications

7.1 The Licensing and Enforcement 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

- 7.2 In making its decision, the 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 3, 4, 5 and 6 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 8 that refers specifically to the licensing hours. This is attached in **Appendix 7**.
- 7.3 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.
- 7.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report
- 7.5 The Sub-Committee has powers to adjourn or carry forward the hearing to additional specified dates.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:
- Speculating on 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 or imposing conditions that do not promote the licensing objectives.

7.10 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.

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

7.12 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.

7.13 There is a right of appeal to the Magistrates Court by any interested party within 21 days of the decision being notified.

8.0 Risk & Opportunity Management Implications

8.1 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.

9.0 People Impact Assessment (PIA):

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

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

10.0 Other Corporate Implications

Community Safety

10.1 None at this stage

Sustainability

10.2 None at this stage

Staffing & Trade Union

10.3 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 (June 2014) and Daniel Thwaites v Wirral
Borough Magistrates Court (2008)