

**COMMITTEE :**  
**Licensing Sub-Committee**  
**27 July 2016**

**REPORT OF :**  
**Principal Licensing Officer**

**LEGISLATION :**  
**Licensing Act 2003**

Agenda - Part	Item
	<p><b>SUBJECT :</b>  <b>Variation of a premises licence application</b></p> <p><b>PREMISES :</b>  <b>The Winchmore, 235 Winchmore Hill Road                      N21</b></p> <p><b>WARD :</b>  <b>Southgate</b></p>

**1. LICENSING HISTORY & CURRENT POSITION:**

**LICENCE 1 – LN/200501025**

- 1.1 On 8 August 2005 an application by Mr Keith Freeman to convert an existing Justices On Licence and an existing Public Entertainment Licence to a Premises Licence, which was not subject to any representations, was granted by officers in accordance with delegated powers.
- 1.2 On 21 February 2007 an application by **Messrs Phidias and Simis Kouttis** to transfer the Premises Licence, which was not subject to any representations, was granted by officers in accordance with delegated powers.
- 1.3 On 17 June 2010 application was made by the **Trading Standards Service** (which is the Weights & Measures Responsible Authority for the borough) for a review of the Premises Licence.
- 1.4 The review was made on the grounds of the prevention of crime and disorder.
- 1.5 The authority considered that it is necessary, for the promotion of the licensing objectives to revoke the licence. This was decision was appealed, but the magistrates Court dismissed the appeal.

**LICENCE 2 – LN/200800171**

- 1.6 On 1 March 2008 an application by **Messrs Phidias and Simis Kouttis** for a new Premises Licence (for usable areas of the Ground and First Floors), that was subject to representations from the Environmental Health Service, from the Trading Standards Service and from 63 (sixty-three) Interested Parties, was granted-in-part by the Licensing Sub-Committee.

- 1.7 The licence was reviewed in June 2010 by Trading Standards following a significant number of complaints relating to loud music, people noise, unlicensed activities and alleged breach of conditions.
- 1.8 The hours of the licence for some activities were reduced and the conditions amended. An appeal was launched but was subsequently dismissed by the Magistrates Court.
- 1.9 On 7<sup>th</sup> March 2013, the premises licence was transferred into the name of Star Pubs & Bars Limited, 3-4 Broadway Park, South Gyle Broadway, Edinburgh, EH12 9JZ.
- 1.10 On 4<sup>th</sup> February 2015, a new premises licence application was granted, which amended the plan of the premises to reflect the change in the layout.

### **LICENCE 3 – LN/201500123**

- 1.11 On 13 May 2015, a new application was granted naming Celtic Cross Ltd, C/O Mark Walsh as the premises licence holder and since 2 June 2015, and Mr Andrew Cochrane was the named Designated Premises Supervisor (DPS).
- 1.12 On 2 June 2015, Mr Mark Walsh also became the named DPS.
- 1.13 Since this licence has been issued, 26 Temporary Event Notices (TENs) have been applied for, two of which were withdrawn, therefore 24 TENs have taken place.
- 1.14 The current Premises Licence permits:

Activity	Existing Hours
<b>Open</b>	09:00 – 23:30 everyday
<b>Alcohol (on and off sales)</b>	10:00 – 23:00 everyday
<b>Live music</b>	09:00 – 23:00 everyday
<b>Recorded Music</b>	09:00 – 23:00 everyday
<b>Performance of dance</b>	09:00 – 23:00 everyday
<b>Plays</b>	Nil
<b>Films</b>	Nil
<b>LNR</b>	Nil

- 1.15 An area plan is attached as Annex 01.
- 1.16 A copy of this Premises Licence is attached as Annex 02.

## **2. THIS APPLICATION:**

- 2.1 This application (attached as Annex 03) originally sought an extension of hours as follows:

Activity	Original Proposed Hours – Friday &
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	<b>Saturday changes only</b>
<b>Open</b>	09:00 – 00:30
<b>Alcohol (on and off sales)</b>	10:00 – 00:00
<b>Live music</b>	09:00 – 00:00
<b>Recorded Music</b>	09:00 – 00:00
<b>Performance of dance</b>	09:00 – 00:00
<b>Plays</b>	09:00 – 00:00
<b>Films</b>	09:00 – 00:00
<b>LNR</b>	23:00 – 00:00

2.2 However, as a result of mediation between the applicant and the Licensing Authority, the application now seeks:

<b>Activity</b>	<b>Final Hours sought by Applicant (agreed by Licensing Authority)</b>
<b>Open</b>	09:00 – 00:30
<b>Alcohol (on and off sales)</b>	10:00 – 00:00
<b>Live music</b>	09:00 – 23:00
<b>Recorded Music</b>	09:00 – 23:00
<b>Performance of dance</b>	09:00 – 23:00
<b>Plays</b>	09:00 – 00:00
<b>Films</b>	09:00 – 00:00
<b>LNR</b>	23:00 – 00:00

2.3 The applications were advertised in accordance with the requirements of the Licensing Act 2003.

2.4 Each of the Responsible Authorities were consulted in respect of each application.

### **3. RELEVANT REPRESENTATIONS:**

**3.1 Licensing Authority (including Licensing Enforcement, Environmental Health, Trading Standards, Planning, Health & Safety and Children’s Services):** As times and conditions have been agreed (i.e. the applicant has agreed to amend the operating schedule attached to the application to include additional steps to promote the licensing objectives) the representation, against the application, has been duly withdrawn.

**3.3.1 Other Persons:** Six representations have been made, against the application, by persons residing at 5 (five) separate addresses in the vicinity of the premises. The grounds of representation include crime & disorder and public nuisance. Please note that IP3 and IP4 are not objecting to the hours but comment that stricter conditions need to be taken into consideration.

**3.3.2** Copies of the representations are attached as Annex 04.

#### **4. PROPOSED LICENCE CONDITIONS:**

- 4.1 The conditions arising from this application are attached as Annex 05. Conditions proposed by the Licensing Authority have been agreed by the applicant. A further condition proposed by an “Other Person” has not been agreed by the applicant.

#### **5. RELEVANT LAW, GUIDANCE & POLICIES:**

- 5.1 The paragraphs below are extracted from either:
- 5.1.1 Licensing Act 2003 ('Act'); or
  - 5.1.2 Guidance issued by the Secretary of State for Culture, Media and Sport of March 2010 ('Guid'); or
  - 5.1.3 London Borough of Enfield's Licensing Policy Statement of January 2010 ('Pol').

##### **General Principles:**

- 5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4 (1)].
- 5.3 The licensing objectives are:
- 5.3.1 the prevention of crime and disorder;
  - 5.3.2 public safety;
  - 5.3.3 the prevention of public nuisance; &
  - 5.3.4 the protection of children from harm [Act s.4 (2)].
- 5.4 In carrying out its functions, the Sub-Committee must also have regard to:
- 5.4.1 the Council's licensing policy statement; &
  - 5.4.2 guidance issued by the Secretary of State [Act s.4 (3)].

The Sub-Committee may not have regard to whether or not a proposal is likely to be permitted in accordance with the law relating to planning or building [Pol s.17.1].

There can be confusion about the difference between the “need” for premises, and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel, and is a matter for the planning authority and for the market. This is not a matter for the Sub-Committee in discharging its licensing functions [Guid 13.18].

##### **Cumulative Impact Policy:**

The applicant premises/club premises is not located in a Cumulative Impact Policy Area [Pol s.9.20].

##### **Hours:**

The Sub-Committee decides licensed opening hours as part of the implementation of the licensing policy statement and is best placed to make decisions about appropriate opening hours in their area based on their local knowledge and in consultation with responsible authorities [Guid 10.13].

However, there is no general assumption in favour of lengthening licensing hours and the four Licensing Objectives should be paramount considerations at all times. Where there are representations against an application and the Sub-Committee believes that extending the licensing hours would undermine the Licensing Objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested. [Pol s.8.3].

Stricter conditions with regard to licensing hours may be required for licensed premises situated in or immediately adjacent to residential areas to ensure that disturbance to local residents is avoided. This will particularly apply in circumstances where, having regard to the location, size and nature of the premises, it is likely that disturbance will be caused to residents in the vicinity of the premises by concentrations of people leaving, particularly during normal night-time sleeping periods [Pol s.8.4].

### **Regulated Entertainment:**

With effect from 6<sup>th</sup> April 2015, changes were made to Schedule 1 of the Licensing Act 2003 which determines whether different types of regulated entertainment are licensable or not.

In relation to this application:

No licence is required for recorded music if it takes place on a premises which are authorised by a premises licence for the supply of alcohol for consumption on the premises, as long as it takes place between 8am and 11pm, and the audience is less than 500 people.

No licence is required for the performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.

No licence is required for a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

No licence is required for performances of dance between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

### **Decision:**

As a matter of practice, the Sub-Committee should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representations and avoid straying into undisputed areas [Guid 9.36].

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Sub-Committee must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the guidance; and
- its own statement of licensing policy [Guid 9.37].

Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:

- to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a person in the licence as the premises supervisor;
- to reject the application [Act s.18].

**Background Papers :**

**None other than any identified within the report.**

**Contact Officer :**

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