

MUNICIPAL YEAR 2020/21 REPORT NO.

COMMITTEE:
Licensing Sub-Committee
10 March 2021

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
	SUBJECT: Application for a Variation of a Premises Licence
	PREMISES: THE WINCHMORE, PUBLIC HOUSE, 235 WINCHMORE HILL ROAD, LONDON, N21 1QA
	WARD: Southgate

1 LICENSING HISTORY:

1.1 The Winchmore is a long-standing premises operating as a pub, bar and restaurant, and has previously been known as The Willow. There is a substantial licensing history which is set out below.

LICENCE 1 – LN/200501025

1.2 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.

1.3 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.

1.4 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.

1.5 The review was made on the grounds of the prevention of crime and disorder.

1.6 The authority considered that it is necessary, for the promotion of the licensing objectives to revoke the licence. This decision was appealed, but the magistrates Court dismissed the appeal.

LICENCE 2 – LN/200800171

1.7 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.

- 1.8 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.
- 1.9 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.
- 1.10 On 7 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.
- 1.11 On 10 June 2015, this premises licence was surrendered.

LICENCE 3 – LN/201500123

- 1.12 On 4 February 2015, a new application was granted by the Licensing Sub-Committee, naming Star Pubs & Bars Limited, as the premises licence holder. This application reflected the times and activities of LN/200800171 but with an up to date plan.
- 1.13 On 3 June 2015, a transfer application and a Vary DPS application which were not subject to any representations, were granted by officers in accordance with delegated powers, naming Celtic Cross Limited, as the premises licence holder and Mr Mark Walsh as the Designated Premises Supervisor (DPS).
- 1.14 On 27 July 2016, a variation application to extend the licensable hours was granted by the Licensing Sub-Committee. This application was subject to representations from six local residents objecting to the extension. For more information on this application and outcome, click [here](#) or visit <http://governance.enfield.gov.uk/mgAi.aspx?ID=37532>
- 1.15 A copy of the most up to date Premises Licence is attached as Annex 1.

2.0 THIS APPLICATION:

- 2.1 On 15 January 2021 an application was made by Celtic Cross Limited for a variation of premises licence LN/201500123.
- 2.2 The Company Directors of Celtic Cross Limited are Mr Mark Walsh and Ms Eimear Walsh (correct of 1 March 2021).
- 2.3 The Designated Premises Supervisor is still Mr Mark Walsh.
- 2.4 The application seeks the following:
- To extend the terminal hour for the sale of alcohol on Sunday to midnight;
 - Extend the terminal hour for live and recorded music on Friday to Sunday to midnight;
 - Permit late night refreshment on Sunday from 23:00 to midnight;

- Extend the opening hours to allow the premises to close on Sunday at 00:30 the following day;
- Remove all existing Annex 2 and Annex 3 conditions and replace with new conditions.

Table 1

Activity	Existing hours on Premises Licence (LN/201500123)	Hours Applied For on Variation
Opening hours	Sunday to Thursday 09:00 to 23:30 Friday & Saturday 09:00 to 00:30	Monday to Thursday 09:00 to 23:30 Friday to Sunday 09:00 to 00:30
Supply of alcohol (on and off)	Sunday to Thursday 10:00 to 23:00 Friday & Saturday 10:00 to 00:00	Monday to Thursday 10:00 to 23:00 Friday to Sunday 10:00 to 00:00
Plays (indoors)	Friday & Saturday 09:00 to 00:00	Friday & Saturday 09:00 to 00:00
Live Music (indoors)	Daily 09:00 to 23:00	Monday to Thursday 09:00 to 23:00 Friday to Sunday 09:00 to 00:00
Recorded Music (indoors)	Daily 09:00 to 23:00	Monday to Thursday 09:00 to 23:00 Friday to Sunday 09:00 to 00:00
Performance of dance (indoors)	Daily 09:00 to 23:00	Daily 09:00 to 23:00
Late night refreshment (indoors)	Friday & Saturday 23:00 to 00:00	Friday to Sunday 23:00 to 00:00

2.5 Each of the Responsible Authorities were consulted in respect of the application.

2.6 A copy of the application is attached as Annex 2.

2.7 The premises is not located within one of Enfield's Cumulative Impact Policy areas.

3.0 RELEVANT REPRESENTATIONS:

3.1 **Metropolitan Police:** Representations were initially made, namely seeking modification of licence conditions. Those conditions have been agreed by the applicant, and therefore the representation was withdrawn.

3.2 **The Licensing Authority:** Representations were initially made, namely seeking modification of licence conditions. Those conditions have been agreed by the applicant, and therefore the representation was withdrawn.

3.3 **Other Persons:** Representations have been made in response to this application as follows:

3.3.1 19 representations from local residents known as Other Persons objecting to the variation application. These residents live on Winchmore Hill Road, Houndsden Road and Church Hill, and shall be referred to as IP1 to IP19. The objecting representations are presented in Annex 3. IP6 has provided video footage, the link is attached to the report.

3.3.2 2 representations from a ward councillor and a local resident in support of the variation application and shall be referred to as SUP01 to SUP02. The supporting representations are presented in Annex 4.

4.0 PROPOSED LICENCE CONDITIONS:

4.1 The conditions arising from this application can be found in Annex 5.

5.0 RELEVANT LAW, GUIDANCE & POLICIES:

5.1 The paragraphs below are extracted from either:

5.1.1 the Licensing Act 2003 ('Act'); or

5.1.2 the Guidance issued by the Secretary of State to the Home Office of April 2018 ('Guid'); or

5.1.3 the London Borough of Enfield's Licensing Policy Statement of January 2020 ('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)].

Hours:

5.5 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about

the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.[Guid 10.13]

- 5.6 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested. [Guid 10.14].
- 5.7 The Council will deal with licensing hours on the merits of each individual application, again, only if relevant representations are made and there is a hearing to consider them. Applicants are expected to provide details of the measures they intend to take in order to promote the Licensing Objectives. [Pol s.8.1].
- 5.8 The Council recognises that variable licensing hours for the sale of alcohol may be desirable to ensure that concentrations of customers leaving premises simultaneously are avoided. However, where this may lead to longer opening hours the Council also recognises the potential for additional crime and disorder and/or public nuisance that may arise. [Pol s.8.2].
- 5.9 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].
- 5.10 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 licensed 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. It is accepted that applicants' operating schedules may adequately provide for such circumstances and the Council will not seek to impose stricter conditions unless relevant representations are received, and a hearing takes place. [Pol s.8.4].
- 5.11 The Council takes the view that persons under 18 may be at risk by late night access to premises primarily used for the sale and consumption of alcohol. In particular, exposure to late night drinking may encourage illegal drinking and detrimentally affect studies and work. [Pol s.8.5].

Recorded Music

- 5.12 Certain types of regulated entertainment have been deregulated since April 2015 [Guid Section 16] , meaning existing conditions relating to those activities will not always be enforceable. Premises who are licensed to sell alcohol for consumption 'on' the premises are now automatically allowed to provide recorded music between 08:00 – 23:00 without the need for it to be named on the premises licence. The conditions relating to recorded music are therefore not enforceable during those times.

The Live Music Act 2012

- 5.13 The Live Music Act 2012 permits certain premises in certain circumstances to provide live music between 08:00 – 23:00 without the need for it to be named on a premises licence. Similarly, existing conditions relating to live music provided during those times are not enforceable.

Planning and Parking Enforcement

- 5.14 Reference has been made to alleged planning and parking breaches within some of the representations. Information relating to these issues cannot be taken into consideration for licence reviews. that in planning and licensing, one regime does not override the other – both permissions are required for the premises to trade lawfully.

Covid-19 Guidance

- 5.15 On 26 March 2020, Regulations (now known as The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020¹ (SI. 2020 No. 1374) introduced restrictions with a view to controlling the pandemic, and which became enforceable by law in England. These Regulations have been amended on a number of occasions since. Everyone is required to comply with these Regulations issued by the government in relation to coronavirus, in order to protect both themselves and others.
- 5.16 Reference has been made to social distancing and other Covid-19 control measures being non-compliant within some of the representations. These cannot be taken into consideration for the purposes of licence applications.

Decision:

- 6.1 As a matter of practice, licensing authorities 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 representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits. [Guid 9.37].
- 6.1.1 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:
- 6.1.1.1 the steps that are appropriate to promote the licensing objectives;
- 6.1.2 the representations (including supporting information) presented by all the parties;
- 6.1.3 the guidance; and
- 6.1.4 its own statement of licensing policy [Guid 9.38].
- 6.2 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:
- 6.2.1 to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;
- 6.2.2 to exclude from the scope of the licence any of the licensable activities to which the application relates;
- 6.2.3 to refuse to specify a person in the licence as the premises supervisor;
- 6.2.4 to reject the application [Act s.18].

Background Papers:
None other than any identified within the report.

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