

## DECISION NOTICE

### Northern Area Licensing Sub Committee

#### Decision made on 26 November 2014 in respect of an application for a Premises Licence made by SN15 Leisure Limited for the premises at SN15 17a Station Hill, Chippenham

**Decision:**

The Northern Area Licensing Sub Committee have decided to grant the application by SN15 Leisure Ltd for a Premises Licence at 17a Station Hill, Chippenham in relation to the licensable activities and hours as set out below:

	Timings	Days
<u>Provision of regulated entertainment</u>		
Films (Indoors)	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Live music (indoors)	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Recorded music (indoors)	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Performance of dance (indoors)	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Anything of a similar description (indoors)	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Sale by retail of alcohol (on sales)	11:00 to 01:30 11:00 to 02:30	Sunday – Wednesday Thursday – Saturday
Hours Premises Open to the Public	11:00 to 02:00 11:00 to 03:00	Sunday – Wednesday Thursday – Saturday
Non standard timings (for all Licensable Activities listed above)	On New Year's Eve, from the end of permitted hours until the commencement of permitted hours on New Year's Day.  An additional hour commencing at the end of permitted hours, on the day when British Summertime commences.	

Subject to the attached conditions set out in Appendix 1 of this Decision Notice.

### Reasons

The application for this premises licence has been made pursuant to a provisional statement issued on 12 April 2013. In that Statement, the Licensing Authority had indicated that, if a subsequent application were made for a premises licence in the same terms as sought in the provisional statement application, it would consider it appropriate to grant that licence, subject to the completion of the necessary works to the premises and subject to conditions as detailed in the provisional statement.

The provisional statement had been issued following a hearing held to consider representations made by the police, the Council's Public Protection Team, the licensing authority, the local member, local residents and local business owners. That hearing had also heard from the applicant regarding the proposed management arrangements for the premises. When deciding, at the provisional statement stage, that it would support the future grant of a premises licence, the Licensing Authority had, therefore, taken account of the representations made by the applicant at that time regarding the intended management of the premises.

The Sub Committee considered that many of the concerns regarding this application, particularly those of the local residents and business owners, had been considered at the provisional statement stage and were addressed by the conditions set out in the provisional statement, which are now imposed on the premises licence.

The Sub Committee considered that the principal issues in this current hearing were whether the required works had been satisfactorily carried out and whether changes in the management arrangements for the premises justified any changes to the position taken by the Licensing Authority at the provisional statement stage.

### Works to the Premises

The Sub Committee heard representations from Cllr. Caswill that no proper schedule of works had been produced by the Applicant, as had been required by the Provisional Statement. Furthermore, there had been no confirmation that all of the recommendations set out in the reports of Ian Sharland dated 10 November 2012 and Roger Tombs of 7 November 2012 had been carried out. The Sub Committee accepted that this may be the case, but considered that the main issue here was whether the structure of the premises, following the works that had been done, was appropriate to meet the licensing objectives. Having considered the comments of Richard Francis, Senior Environmental Health Officer, the Sub Committee were satisfied that the additional acoustic condition set out above would give the Environmental Protection Team and the Licensing Authority the necessary ability to control the level of music and noise emissions from the premises.

## Changes in Management

The Applicant submitted that representations made by the police regarding the suitability of Mr. Lever, the proposed DPS, were not relevant representations, as the provisions of Section 18(9) of the Licensing Act had not been complied with. The Police argued, however, that their concerns about Mr. Lever related to his involvement in the management of the premises generally, not specifically to his appointment as DPS. The Sub Committee accepted that the requirements of section 18(9) had not been met and that they could not consider any representations, or make any decision, specifically regarding Mr. Lever's position as DPS.

However, as explained during the hearing, the Sub Committee considered that, irrespective of whether or not he was the named DPS, it seemed clear that Mr. Lever would be involved in the management of the premises, given his role in the Applicant company. They therefore felt that it was relevant to hear and consider representations about Mr. Lever's suitability on that basis.

The police had summarised their concerns regarding the proposed involvement of Mr. Lever in the management of these premises. They had referred to a number of incidents that had occurred at previous licensed premises in Swindon where Mr. Lever had worked.

The police had also set out their concerns regarding Mr. Shayegan, in particular regarding alleged inconsistent statements made by him both in relation to the role that he would play in the management of these premises and also in connection with his previous involvement with premises in Bath known as the Blue Rooms.

In response, Mr. Kolvin, for the Applicants, had reiterated that both Mr. Lever and Mr. Shayegan had considerable experience in the licensed trade and that they were both aware of their obligations to manage the premises properly and to comply with any licence conditions, including the detailed management plan.

The Sub Committee have given careful consideration to the concerns that were raised by the police regarding the change in management arrangements and personnel. However, they do not consider that these changes were sufficient to justify a refusal of the application. The management of the premises is regulated by the conditions imposed on the licence and the management plan. Any failure to comply with those conditions can lead to a review of the premises licence.

In reaching its decision the Sub Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4, 18, and 32); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

## **Right to Appeal**

All parties have the right to appeal to the Magistrates Court against the terms of this statement. Any such appeal must be made within 21 days of receipt of this statement.

## **Appendix 1 – Licence Conditions**

### **PREVENTION OF PUBLIC NUISANCE**

- Noise generated on the premises shall be kept at such a level at the boundary of any occupied property that it shall not be a nuisance to the occupier of that property. The Premises Licence Holder or the Designated Premises Supervisor shall carry out observations from time to time in the vicinity of the nearby properties, between 23.00 hrs to closing time, to establish whether there is a noise breakout from the premises.
- The Licensee shall take all necessary steps to prevent persons in the neighbourhood being unreasonably disturbed by noise made by persons waiting to enter and when leaving the premises.
- The external amenity area at the rear of the premises comprising the 3 patio areas is to be restricted to a maximum of 40 persons at all times and is only to be used after 23:00 for the purposes of smoking (no drinks are to be taken outside after this time). The smoking area shall be restricted to the upper patio area. This area to be appropriately managed by the applicant to ensure compliance.
- No rubbish or recyclable material is to be disposed of from the premises between the hours of 02:00 and 07:00.

### **PUBLIC SAFETY**

- Maximum Numbers
  - a) Overcrowding in such a manner as to endanger the safety of the public (even, if in the circumstances, this is less than the maximum permitted number) shall not be permitted in any part of the premises. The maximum number of persons permitted on the premises as stated in the licence is not to be exceeded at any time.
  - b) The Licensee or authorised representative shall record and control at the time the numbers of persons in the premises. The Licensee shall keep these records for 12 months. A suitable means of counting persons shall be provided. This may be mechanical, electrical or other approved method.

### Occupancy/Exit Capability

The maximum number of persons that should be permitted to use the parts of the premises detailed below should not exceed the figure stated:

<u>Parts of the Premises</u>		Max Numbers
Ground Floor	Open plan when used for dancing/standing	276
Balcony	Open plan standing audience	45
1 <sup>st</sup> floor dance/bar areas	Open plan when used for dancing/standing	291
Total floor space capacity – number of persons		612
Total available exit capacity for normal risk rating and 2.5 minute simultaneous evacuation time		600 persons
<b>Maximum numbers permitted:</b>		<b>600 persons</b>

Arrangements will need to be made to control the number of people attending the premises and to avoid overcrowding of any area caused by people migrating from one area to another.

- In all parts of the building to which the public are admitted, a means of illumination shall be provided capable of illuminating those parts clearly.
- Log Book

A log book shall be provided in which to record details of all tests, i.e. fire-fighting equipment, safety/emergency lighting, fire drills, etc. and other details as required by the Licensing Authority and kept available for inspection at all times. The logbook shall not be in loose-leaf and shall have numbered pages. The person carrying out the test must record his/her details in the logbook.

- Fire Alarms

The fire alarm (where provided) shall be properly maintained in effective working order. Weekly tests, using different call points for each test, shall be carried out. The results of such tests shall be recorded in the logbook. The person carrying out the test shall record his/her details in the logbook.

- Fire Procedure

The licensee shall ensure that the person in charge, official attendants and himself are aware of the method of operating the fire extinguishers and the action to be taken in the event of a fire including evacuation of the premises, the method of calling the Fire Brigade and the location of the nearest available telephone.

- Special Lighting Effects

If special effects such as lasers, pyrotechnics, smoke machines, foam machines, strobe lighting effects and fog generators are being used at the premises, then

- i) The relevant current guidelines/legislation appertaining to the special effect shall be complied with.
- ii) Warning notices shall be displayed prominently at entrances and in the premises.

- Smoke Machines and Fog Generators

- a) Smoke machines and fog generators shall be sited and controlled so that they do not obstruct exit routes or cause a hazard to surrounding curtains or fabrics.
- b) The volume of smoke and/or fog shall be limited so that it does not seriously affect the means of escape or obscure escape route signs.
- c) Warning notices shall be displayed stating that fog or smoke is used as part of the effects on the premises.

- Management

- a) It is the personal responsibility of the Licensee to ensure that all conditions are complied with. The Licensee shall ensure that at all times when the licence applies, there is a person nominated by him/her who will have control of the premises, and will ensure that all licence conditions are adhered to.
- b) If the premises are hired out, the Licensee shall draw to the attention of the hirer, all of the above items and make effective arrangements to ensure that that are complied with.

## **PROTECTION OF CHILDREN FROM HARM**

- Obscene or Indecent Performances

The Licensee shall conduct the licensed premises in an orderly manner and shall not allow performances of an obscene or indecent nature.

- A Challenge 25 policy will be implemented. A recognised proof of age, which includes a photograph, is to be required for anyone who appears to be under the age of 25 and who wishes to purchase or consume alcohol.
- There shall be no admittance to persons under 18 (except planned 'student nights' or private parties).

- Clear procedures are to be in place for the operation of private parties and under 18 events.

## **PREVENTION OF CRIME AND DISORDER**

- The Premises Licence holder is to develop, maintain and implement a detailed Management Plan which must include the chain of command and responsibilities, risk assessments, procedures, policies (including dispersal policy) to enable the Premises Licence holder to comply with the four licensing objectives. The Licence shall be run in accordance with the Management Plan (current plan submitted with Provisional Statement April 2013). Such plan to be available for inspection upon request by the Police and Licensing Authority and to be accessible to staff.
- CCTV
  - a) A CCTV system with recording or monitoring capability shall be installed to cover all floors of the premises used under the terms of the Licence and shall also cover all entrances, exits and external areas immediately around entrances. Recordings shall be kept for 28 days and be made readily available to any authorised Officer of the Council or Police Officer.
  - b) The CCTV system shall be maintained in full functioning order and used at all times when the premises are open.
  - c) The CCTV is to be reviewed and if necessary upgraded to standards required by Wiltshire Police Crime Reduction Officer.
- Door Supervisors
  - a) Minimum of 10 SIA registered door supervisors on every trading session after 21:00. Outside of these areas the number of SIA Door Supervisors to be determined by a Risk Assessment subject to d) below.
  - b) All security staff to wear clothing that clearly identifies them at all times (including outerwear).
  - c) Door supervisors to sign in and out with their names/badge numbers at the start and end of each shift.
  - d) At least two door supervisors will be placed at the main entrance during trading hours.
  - e) Door supervisors are to remain on duty outside the venue for not less than 30 minutes after the last customer has left the venue, to provide a visible presence and deter anti-social and/or criminal behaviour. This also includes clearing the street of any litter left behind by patrons.

- All reasonable steps will be taken by staff to ensure that persons entering the premises are not carrying any illegal drug.
- Regular searches by staff of all areas of the premises will be undertaken during trading hours to ensure that drug use or excessive drinking is not taking place on the premises.
- Any person found in possession of illegal drugs, is excessively drunk or violent will be asked to leave the premises immediately.
- The Designated Premises Supervisor or another identified responsible person who holds a valid Personal Licence is to be present at the venue during all key trading times.
- The Designated Premises Supervisor is to undertake or to have undertaken training as approved by Wiltshire Police.
- An accurate and up to date incident and refusal logs are to be maintained at all times. Incident logs should include ejections and be signed by relevant security staff.
- Only polycarbonate glasses are to be in use at all times throughout the venue, the venue is to operate a bottle decanting policy, no glass bottles are to be present in the public areas.
- All bar staff to undertake an alcohol awareness course by a recognised training provider and records of all staff training to be kept on file.
- All staff (to include Management) to undertake induction/fresher training to include roles and responsibilities and the current Licensing Objectives.
- DPS or nominated person shall attend local pub watch meetings.
- Sound levels
- An additional sound commissioning exercise will be undertaken once the decorative and substantive works are completed at the premises. The commissioning exercise will be undertaken to set music sound levels for the noise limiter installed at the premises and will be adjusted at this time to the satisfaction of Wiltshire Council Public Protection Officers to ensure the promotion of the prevention of public nuisance objective.

Any future adjustments to the agreed music levels shall be through a licensing variation and agreement with the Wiltshire Public Protection Officers.