

Wiltshire Council

Northern Area Licensing Sub Committee

12th April 2013

Application for a Provisional Statement: SN15 17A Station Hill Chippenham

1. Purpose of Report

- 1.1 To determine an application for a Provisional Statement in respect of SN15, 17A Station Hill, Chippenham made by SN15 Limited

2. Background Information

- 2.1 An application for a Provisional Statement in respect of SN15 has been made by SN15 Limited for which fourteen relevant representations have been received.

- 2.2 Under section 29 of the Licensing Act 2003 "*Application for a provisional statement where premises being built, etc.*"

(1) *This section applies to premises which—*

- a) *are being or are about to be constructed for the purpose of being used for one or more licensable activities, or*
- b) *are being or are about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose).*

(5) *An application under this section must also be accompanied by a schedule of works.*

(6) *A schedule of works is a document in the prescribed form which includes—*

- a) *a statement made by or on behalf of the applicant including particulars of the premises to which the application relates and of the licensable activities for which the premises are to be used,*
- b) *plans of the work being or about to be done at the premises, and*
- c) *such other information as may be prescribed.*

(7) *For the purposes of this Part, in relation to any premises in respect of which an application for a provisional statement has been made, references to the work being satisfactorily completed are to work at the premises being completed in a manner which substantially complies with the schedule of works accompanying the application."*

2.3 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the representations and the provisional statement application. In accordance with Section 31 (3) of the Licensing Act 2003 the Licensing Sub Committee is required to determine whether it would consider it necessary to take any steps under section 18 (3), listed in 2.4 below, if, on the work being satisfactorily completed, it had to decide whether to grant a premises licence in the form described in the provisional statement application.

In considering the application, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy

2.4 Such steps are:

- i) To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers necessary for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To refuse to specify a person as the designated premises supervisor.
- iv) To reject the application.

2.5 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

2.6 On 19th February 2013 the Licensing Authority received an application for a Provisional Statement, management plan and associated schedule of works, which was accepted as a valid application.

The Management Plan submitted by SN15 Limited contains two consultants' reports, one from a noise acoustic consultant and one from a Fire Safety Consultant, the schedule of works supplied by SN15 Limited seeks to address the requirements set out in both reports.

2.7 The application as applied for is as follows:

Licensable Activity	Timings	Days
<u>Provision of regulated entertainment</u>		
Films	11:00 to 03:00	Daily
Live music	11:00 to 03:00	Daily
Recorded music	11:00 to 03:00	Daily

Performance of dance	11:00 to 03:00	Daily
Anything of a similar description	11:00 to 03:00	Daily
<u>Provision of entertainment facilities</u>	No longer licensable	
Sale by retail of alcohol on sales only	11:00 to 02:30	Daily
Hours Premises Open to the Public	11:00 to 03:00	Daily

A copy of the provisional statement application including the management plan from SN15 Limited is attached as **Appendix 1**.

Schedule of works supplied by Arena Management, Bath and Wiltshire Fire Safety and explanatory email from SN15 Limited is attached as **Appendix 2**.

- 2.8 The premise was previously known as Karma Nightclub and was licensed under the Licensing Act 2003, until the licensing authority revoked the premises licence held previously by Constantine Leisure Limited following the second of two review hearings, the decision was subsequently upheld by Wiltshire Magistrates' Court and later the High Court in 2011.
- 2.9 To clarify the position of this application in light of the previous history, SN15 Limited has advised the Licensing Authority they have had no involvement with the previous management of the premises.

3. Consultation and Representations

- 3.1 The application process requires a public notice to be posted on the premises for a period of 28 days together with a public notice placed in a local newspaper. During the consultation period relevant representations have been received from three (3) Responsible Authorities and twelve (12) Interested Parties.

3.2 Responsible Authorities

- Licensing Authority
- Public Protection Noise Team
- Wiltshire Police

3.3 Relevant Representations

- Councillor Chris Caswill Divisional Ward Member Wiltshire Council
- Mr I Keasey 8 St Mary's Place, Chippenham
- Mr D Simpson 14 St Mary's Place, Chippenham
- Mrs R Simpson 14 St Mary's Place, Chippenham
- Master L Simpson 14 St Mary's Place, Chippenham
- Miss D Simpson 14 St Mary's Place, Chippenham
- Mr R Burford 11 Station Hill, Chippenham
- Rev J Millett 20 Station Hill, Chippenham
- Ms J Martin Flat 5, 13 Station Hill, Chippenham
- Mr & Mrs Bos, & Lytham Close, Chippenham
- Mr C Harding, 10-14 Station Hill, Chippenham
- M Day HPH Commerical

3.4 A summary of the representations made is detailed in the table below:

Representation	Licensing Objective	Accepted	Comments
Noise Nuisance from internal and external areas	Prevention of Public Nuisance	Yes	
Insufficient measures in place to control crime and disorder	Crime and Disorder	Yes	
Likely impact of antisocial behaviour on the residents and business in the area of SN15	Prevention of Public Nuisance/ Public Safety	Yes	
Fear of public disorder in the area of SN15	Public Safety	Yes	

Two of the responsible authorities have also expressed their concerns that the schedule of works proposed by the applicant does not adequately address the requirements set out in both the consultants' reports.

3.5 The Licensing Authority received a letter from Wiltshire Fire & Rescue Service in January 2013 following a previous application by SN15 Limited which was subsequently withdrawn; the Licensing Sub Committee's attention is drawn to its content as it is relevant to this application which contains the same management plan. A copy of the letter is attached as **Appendix 3**.

3.6 The relevant representations are attached as **Appendix 4**. An emailed response received on 1st April 2013 from SN15 Limited, in response to the Licensing Authorities representation is attached as **Appendix 5**

Attached as **Appendix 6** is a plan, that shows the location of the premise.

3.7 A number of the parties making representations have proposed many conditions that may address their concerns, a small number of which are

highlighted below. The sub committee's attention is drawn to the representations to see the full list :-

- All works recommended by both the Acoustic and fire specialists are carried out prior to a Premises Licence being granted.
- After 23:00 the outside area should be restricted to patrons wishing to smoke and the number of patrons in this area should be restricted to 40.
- Premises to remain closed on Thursdays and Sundays including Bank Holiday Sunday nights
- Improved sound insulation to roof space
- Premises to close no later than midnight
- Alcohol consumption is actively managed at safe levels
- The applicant to ensure the area to be cleared of all associated rubbish, vomit etc prior to other business in the area opening.

4. Legal Implications

- 4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.
- 4.2 The Applicant and all persons who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.
- 4.3 At the hearing all those who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

- 5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

6. Right of Appeal

- 6.1 It should be noted that the Applicant and those who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.

- 6.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates' Court.
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Report Author: Linda Holland, Senior Licensing Officer

Tel: 01249 706410 linda.holland@wiltshire.gov.uk

Date of report 2nd April 2013

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Provisional Statement application**
- 2 Schedule of works**
- 3 Letter from Wiltshire Fire and Rescue**
- 4 Representations**
- 5 Email from SN15 in response to Licensing Authority representation**
- 6 Location Plan**