

LICENSING AND REGULATION COMMITTEE

8 October 2003

APPLICATION FOR THE RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE FOR  
THE ORIGINAL PORTHOUSE, UPPER BROOK STREET, WINCHESTER

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters Tel No: 01962 848188

RECENT REFERENCES:

1. LR 69 – 6 November 2002 – Application for Transfer and Renewal of a Public Entertainment Licence for The Original Porthouse, Upper Brook Street, Winchester.

EXECUTIVE SUMMARY:

This report is to consider applications for the renewal of the Public Entertainment Licence, at present in force for the premises known as The Original Porthouse, Upper Brook Street, Winchester. The application to renew the Licence is in its present terms and conditions. There has been no change to existing licensees to these premises during the past year. Ms Carmen Rose Ellis is the residential manager and Mr Mike Aldridge is the area manager. A notice of the intention to renew this Licence was posted at the premises from 19 August 2003.

One letter from a resident making representations on behalf of eleven objectors has been received in response to the application. In addition five letters have been received from another resident since the last renewal concerning these premises.

The Police have been consulted and have no objections to the renewal of this Licence. A Police Officer will be attending the Committee meeting.

The Director of Health and Housing has received no complaints since the last renewal.

The permitted hours for the Original Porthouse are from 11am to 12 midnight on Mondays to Wednesdays, 11am to 1am on Thursdays, 11am to 2am Fridays, 11am to 1am Saturdays and 12 noon to 11pm Sundays.

RECOMMENDATIONS:

- 1 That the licence be renewed for one year, in compliance with the “Standard Conditions” and the following “Additional Conditions” for these premises:-
  - (i) That the hours during which the premises may be used for the purposes of this licence shall be as follows:

Mondays to Wednesdays inclusive from 11am to 12 midnight  
Thursdays from 11 am to 1 am the next day following  
Fridays from 11 am to 2 am the next day following  
Saturdays from 11 am to 1 am the next day following  
Sundays from 12 noon to 11pm
  - (ii) The maximum number of persons permitted to be admitted to the premises, whilst in use for the purposes of this licence, shall be as follows:

Lower Bar	–	100
Intermediate Bar	–	75
Dance Area	–	60
Upper Bar	–	75
Total for whole premises	–	310
  - (iii) All windows on the outside of the premises must be kept locked shut at all times, whilst the premises are in use for the purposes of this licence.
  - (iv) A closed circuit television system shall be maintained to assist in the control of customers, both in the premises and in Upper Brook Street.
  - (v) That when more than 20 persons are queuing at any one time the applicant should ensure that at least 2 qualified door staff manage the exit/entrance door.
- 2 That the licensees be reminded of the need to take all possible steps to reduce any noise to residents caused by persons at or in the vicinity of The Original Porthouse.
- 3 That the licensees be reminded of the need take all possible steps and give clear instructions to the door security staff that persons who appear drunk or are attempting to bring alcohol into, or remove bottles and glasses from the premises, are either not admitted or prevented from removing the bottles and glasses.
- 4 That the licensees be reminded of the need to continue to take steps to keep the area clean, outside The Original Porthouse.

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### APPLICATION FOR THE RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE FOR THE ORIGINAL PORTHOUSE, UPPER BROOK STREET, WINCHESTER

Report of City Secretary and Solicitor

#### DETAIL:

#### 1 Applications

1.1 This application relates to The Original Porthouse, Upper Brook Street, Winchester for the renewal of the public entertainment licence in its existing terms and conditions. The applicants are the resident licensee, Ms Carmen Rose Ellis, and the area manager, Mr Mike Aldridge.

1.2 Both licensees have held this licence for the past year.

Ms Ellis has worked in the licensing trade for 11 years, including other premises where a public entertainment licence has been in force. She has held a liquor licence for premises in Cornwall, first as a relief manager and then as the licensee of a public house in Penzance before moving to The Original Porthouse in Winchester.

Mr Aldridge was previously an area manager for Greene King and was appointed as an area manager for Scottish and Newcastle shortly before this licence was renewed in 2002.

1.3 The renewal application is to renew the licence in its existing terms and conditions which are as follows:-

Mondays to Wednesdays inclusive	from 11 am to 12 midnight
Thursdays	from 11 am to 1 am the next day following
Fridays	from 11 am to 2 am the next day following
Saturdays	from 11 am to 1 am the next day following
Sundays	from 12 noon to 11pm

1.4 This Public Entertainment Licence was last renewed, after consideration by this Committee, on 6 November 2002 (Report LR 69) and six monthly meetings by the licensees with the residents. The last meeting was held on 26 June this year.

#### 2 Existing Licences and Conditions

2.1 These premises also have the benefit of a Special Hours Certificate issued by the Licensing Justices in accordance with the Licensing Act 1964. This Certificate permits the sale of intoxicants after the usual closing time of 11pm on Mondays to Saturdays daily providing entertainment and refreshments are provided. In order to meet the requirement of the Special Hours Certificate for entertainment to be provided, a Public Entertainment Licence (granted by this Council) must be in force. There is a restriction on the hours when entertainment may be provided at The Original Porthouse, as set out in the existing Public Entertainment Licence.

2.2 The Licence was renewed to be valid until 7 November 2003, after consideration of this Committee on 6 November 2002, and permits entertainment for the hours set out

in paragraph 1.3 above, subject to compliance with this Council's "Standard Conditions", and with the following "Additional Conditions" :-

- ii) That the maximum number of persons permitted to be admitted to the premises whilst in use for the purposes of this licence, shall be as follows:
 

Lower Bar	100
Intermediate Bar	75
Dance Area	60
Upper Bar	75
Total for whole premises	310
- iii) That the toilet windows in both the Ladies and Gents toilets, adjacent to the Intermediate Bar, must be kept locked shut at all times, whilst the premises are in use for the purposes of this licence.
- iv) That a closed circuit television system is maintained to assist in control, both in the premises and Upper Brook Street, Winchester.
- v) That when more than 20 persons are congregating on leaving the premises the applicant should ensure that at least 2 qualified door staff manage their dispersal so as to minimise any nuisance.

The licensees were also reminded of the following matters:

- a) the need to take all possible steps to reduce any noise to residents caused by persons at or in the vicinity of The Original Porthouse,
- b) the need to take all possible steps and give clear instructions to the door security staff that persons who appear drunk or are attempting to bring alcohol into, or remove bottles and glasses from the premises, are either not admitted or prevented from removing the bottles and glasses and
- c) the need to continue to take steps to keep the area clean, outside The Original Porthouse.

### 3 Representations and Consultations

- 3.1 A Notice of Intention to renew the Licence was posted visible from outside the premises for 28 days, from 19 August 2003.
- 3.2 In response to the Notice displayed at the premises one letter has been received. The letter is from Mrs Nation who lives in Upper Brook Street and asks that her letter is considered on behalf of eleven (un-named) objections. (Appendix 1).
- 3.3 Since this Licence was last renewed in November 2002 five letters reporting inappropriate conduct, vandalism and excess drinking in Upper Brook Street have been delivered to both the Police and the Council by Mr Weller, a resident of Upper Brook Street. These letters are dated 17 March 2003, 20 April 2003, 20 June 2003, 27 July 2003 and most recently 2 August 2003. The letter received on 2 August 2003 is included as Appendix 2.
- 3.4 The Police have been consulted and have stated that they have no objection to the renewal of this Licence. A Police Officer will be available at the Committee to answer any questions concerning these premises.

3.5 The Director of Health and Housing has been consulted. There are no complaints relating to noise disturbance recorded since the Licence was last renewed in 2002. It is recommended that the applicants are reminded of the need to keep all windows, on the outside of the building, locked shut whilst the premises are in use for the purposes of entertainment.

#### 4 Other Information

4.1 The door security staff at the premises are registered with this Council in compliance with the approved scheme of registration for security staff at places of public entertainment.

4.2 The applicants, Ms Ellis and Mr Aldridge have continued with the meetings which are held every six months with local residents. The most recent was on 26 June 2003 when in addition to the local residents, Winchester Police and the Licensing and Registration Officer attended. At that meeting the residents expressed their concerns regarding the noise and anti social conduct by persons leaving late opening premises late into the night.

4.3 The Closed Circuit Television system installed at these premises has been improved this year and now gives a much clearer picture.

4.4 The Crime and Disorder Act 1998 sets out that it shall be the duty of a Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

4.5 Paragraph 5(l) of Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982 refers to the length of time a Public Entertainment Licence may remain in force which is normally for one year. It may be issued for shorter periods should the Council think fit.

#### 5 Issues for Consideration.

5.1 **Are the applicants suitable persons to remain the licensees?** The applicants are considered to be suitable. Both Ms Ellis, the resident licensee and Mr Aldridge, the area manager, have held the public entertainment licence since it was last renewed.

5.2 **Are the premises suitable for licensing for public entertainment, considering public safety, noise, proximity to residential property and other relevant issues?** Providing there is compliance with all the "Additional Conditions" set out in the Recommendation, the premises are considered to be suitable.

5.3 **Are the hours being sought acceptable or should alternative hours be specified?** There is no application to vary the permitted hours of entertainment which have been in force since consideration in January this year. The hours requested and as existing at the Original Porthouse are as granted to a number of premises with Special Hours Exemption Certificates in Winchester City Centre. The closing time are a closing time of 12 midnight on Mondays to Wednesdays, to 1 am on Thursday evenings, 2 am on Friday evenings and (within the policy guidelines) no later than 1 am on Saturday evenings and 11 pm on Sunday evenings. Members will need to consider whether to require the hours to remain as existing or to have an earlier end time than those existing. An Appendix to this report sets out late closing times for premises in Winchester. (Appendix 3).

5.3 **If renewed should the Licence be renewed for the maximum time of one year or for a shorter period?** It is considered that the licence should be granted for a period

of one year. The applicants have and intend to continue the previous licensees to have regular liaison meetings with nearby residents to discuss problems arising from the use of the Original Porthouse for late night entertainment. In April 1999 a licence was granted for six months for these premises but since that time the licence has been renewed for one year.

- 5.4 **Are there any human rights issues which are relevant to the decision?** It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicant's right to use of his premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, necessary in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If the recommended conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportional.
- 5.5 **Are there any further relevant issues which may mean that the licence should not be granted, or should it only be granted subject to further conditions?** One letter making representations has been received in response to the Notice of this application but is on behalf of eleven residents (who are not named). Another resident has written five letters during the past year concerning the conduct of customers of the Porthouse.

#### OTHER CONSIDERATIONS:

##### 6 CORPORATE STRATEGY (RELEVANCE TO):

- 6.1 The licensing function affects the objectives of promotion of a thriving local economy, and promoting a healthier, safer, and more caring community.

##### 7 RESOURCE IMPLICATIONS:

None

#### BACKGROUND DOCUMENTS:

1. Application for the Renewal of a Public Entertainment Licence for The Original Porthouse, Winchester and letters of representation in Appendices 1 and 2.

#### APPENDICES:

1. Letter making Representations from Mrs Nations.
2. Letter from resident Mr Weller.
3. List of Premises in Winchester with Late Closing Times.
4. Map showing the location of The Original Porthouse