

LICENSING AND REGULATION COMMITTEE

4 June 2003

APPLICATION FOR THE TRANSFER AND RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE IN RESPECT OF BAR IGUANA, JEWRY STREET, WINCHESTER

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters Tel No: 01962 848188

RECENT REFERENCES:

1. LR 14 – Application for a Public Entertainment Licence in respect of Da Vinci Restaurant, 16 Jewry Street, Winchester. 8 November 2000.

EXECUTIVE SUMMARY:

This report is to consider applications for both the renewal and transfer of the Public Entertainment Licence, at present in force for the premises known as Bar Iguana, Jewry Street, Winchester. The application to renew the licence is in its present terms and conditions. The transfer is to include a third person, Mr Gary Davies, in addition to the existing licensees, Mr Franco Ardani and Mr Claudio Lazzarini.

The Director of Health and Housing, the Police, Ward Members and the City Church (the owners of flats opposite Bar Iguana) have been consulted. The Director of Health and Housing has no adverse comments but considers that the applicants should be reminded to keep all the doors and windows shut. Care should also be taken to reduce noise activities at the rear of the premises so as not to cause a nuisance to residents.

One of the applicants, Mr Ardani, was recently convicted at Basingstoke Magistrates Court of permitting the sale of alcohol to two persons who were underage. The offences occurred on 20 September 2002. Mr Ardani was fined for the offences but his justices on licence remains in force. The police have been consulted and, in light of Mr Ardani's conviction and evidence that a considerable number of late night disturbances in Jewry Street can be attributed to customers of Bar Iguana, it is suggested that consideration should be given to the licence being granted for a period not exceeding six months, in order that the conduct of the premises can be closely monitored. (Appendix 1).

No other representations have been received concerning these applications.

RECOMMENDATIONS:

- 1 That the licence be transferred to be jointly held by Franco Ardani, Claudio Lazzerini and Gary Davies.
- 2 That the licence be renewed for six months only and to be 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 11.00am to 12.00midnight

Thursdays from 11.00am to 1.00am the next day following

Fridays from 11.00am to 2.00am the next day following

Saturdays from 11.00am to 1.00am the next day following

Sundays from 12.00midday to 10.30pm
 - (ii) The maximum number of persons permitted to be in the premises whilst in use for the purpose of this Licence shall not exceed 200.
 - (iii) All doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open, wedged open, or maintained open by a mechanical or other device whilst the premises are in use for the purposes of this Licence
 - (iv) The Licensee or other person nominated by him shall be on duty at all times whilst the premises are in use for the purposes of this Licence to receive and respond to any complaints of nuisance received from any person
 - (v) A CCTV system be installed and maintained to assist in the control both in and outside the premises to a specification approved by the City Secretary and Solicitor. Video tape recordings made from this system shall be made available for use by both the Police and the Council if required. Such tapes shall be retained for the purpose for a minimum of 28 days.
 - (vi) 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.
- 3 That the licensees be notified that premises will be closely monitored by both the Police and the Council during the period of the licence and any application for renewal of the licence will be referred for consideration by the Licensing and Regulation Committee.
- 4 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 underage, 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.
- 5 That the licensees be reminded of the need to continue to take all possible steps to prevent customers leaving the premises from causing an obstruction of Jewry Street by standing in the carriageway.

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Report of City Secretary and Solicitor

DETAIL:

1 Applications

1.1 These applications relate to Bar Iguana, Jewry Street, Winchester for:

- a) The transfer of the licence to Franco Ardani, Claudio Lazzerini and Gary Davies and
- b) the renewal of the public entertainment licence in its existing terms and conditions.

The application for the transfer is to add Gary Davies as an additional licensee to the existing licensees of Franco Ardani and Claudion Lazzerini. Mr Davies has been the joint holder of the justices' licence for the supply of alcohol at Bar Iguana, with Mr Ardani, since June 2002. Further information regarding the suitability of the licensees is set out later in this report (see paragraph 4.1 below).

1.2 The renewal application is to renew the licence in its existing terms and conditions. The existing permitted hours of entertainment are as follows:-

Mondays to Wednesdays inclusive	from 11am to 12 midnight
Thursdays	from 11 am to 1am the next day following
Fridays	from 11 am to 2am the next day following
Saturdays	from 11 am to 1am the next day following
Sundays	from 12 noon to 10.30pm

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 11 pm 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. The permitted hours when entertainment may be provided at Bar Iguana are set out in paragraph 1.3 above.

2.2 The Licence was last renewed on 23 May 2002 to be valid until 22 May 2003, subject to compliance with this Council's "Standard Conditions", and with the following "Additional Conditions" :-

- (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 11.00am to 12.00midnight

Thursdays from 11.00am to 1.00am the next day following

Fridays from 11.00am to 2.00am the next day following

Saturdays from 11.00am to 1.00am the next day following

Sundays from 12.00midday to 10.30pm

- (ii) The maximum number of persons permitted to be in the premises whilst in use for the purpose of this Licence shall not exceed 200.
- (iii) All doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open, wedged open, or maintained open by a mechanical or other device whilst the premises are in use for the purposes of this Licence
- (iv) The Licensee or other person nominated by him shall be on duty at all times whilst the premises are in use for the purposes of this Licence to receive and respond to any complaints of nuisance received from any person
- (v) A CCTV system be installed and maintained to assist in the control both in and outside the premises to a specification approved by the City Secretary and Solicitor. Video tape recordings made from this system shall be made available for use by both the Police and the Council if required. Such tapes shall be retained for the purpose for a minimum of 28 days.
- (vi) 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.

3 Representations and Consultations

- 3.1 Notices of Intention to renew the Licence, and to transfer the licence, were posted at the premises from 19 April 2003, visible from outside the premises, for 28 days. The City Church who manage flats opposite the premises were also notified. No representations have been received either from individual residents or City Church.
- 3.2 The Director of Health and Housing has been consulted and has no adverse comments. However, it is recommended that the applicants be reminded to keep all doors shut in compliance with the conditions and that noise activities at the rear of the premises do not cause a nuisance to residents.
- 3.3 The police have been consulted and, in light of Mr Ardani's conviction and evidence that a considerable number of late night disturbances in Jewry Street can be attributed to customers of Bar Iguana, it is suggested that consideration should be given to the licence being granted for a period not exceeding six months, in order that the conduct of the premises can be closely monitored. On the date of the offence, 20 September 2002, the police noted that there were a total of 27 persons under the age of 18 in the premises. Since 1 September 2002 the police records show that there

have been 62 assault and disorder incidents in Jewry Street after 11pm. 23 of these incidents have a direct link to Bar Iguana. (Appendix 1).

4 Other Information

- 4.1 One of the applicants, Mr Ardani, was recently convicted at Basingstoke Magistrates Court of permitting the sale of alcohol to two persons who were underage. The offences occurred on 20 September 2002. Mr Ardani was fined for the offences but his justices on licence remains in force. In mitigation, Mr Ardani states that although he was at the premises on the 20 September 2002 he was not actually in the bar area at the time when the offences were committed. Some of the staff on duty that day are no longer employed at the premises. Mr Ardani has stated that he personally now assists at the door to prevent underage persons entering the bar. Franco Ardani has been the holder of a justices licence for Bar Iguana (known as Da Vinci from 1998 to May 2001) from 1998 to date. Both Mr Ardani and Claudio Lazzerini were first granted a provisional public entertainment licence by this Committee on 8 November 2000 (LR 14 – Da Vinci) and came into full use on 23 May 2001. Apart from the above matter nothing is known to the detriment of the applicants Mr Ardani and Mr Lazzerini. Mr Gary Davies has been the joint holder of the justices licence for Bar Iguana with Mr Ardani since June 2002. He was not on duty on the 20 September 2002 and he was not prosecuted as Mr Ardani accepted full responsibility as the licensee on that day. Although the justices' licence for these premises is the first licence held by Mr Davies, he has worked in the Bar and Restaurant trade for approximately 10 years. He attended a British Institute of Innkeepers course in 1999 but he has not previously held a public entertainment licence. There is nothing known to his detriment.
- 4.2 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 Directly opposite Bar Iguana is a fast food outlet called "Mississippi" which is operated by a Mr Lieu and has attracted customers leaving Bar Iguana. This causes persons to remain in the vicinity of Bar Iguana after closing hours. As there is no late night refreshment house licence in place Mr Lieu has been advised that refreshment cannot be consumed on the premises after 10pm. The premises are open late as a take away and this use of the premises has been reported to the planning department for their comment.
- 4.3 There is a Closed Circuit Television system installed at these premises.
- 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 whom the licence may be transferred?** Paragraph 4.1 sets out details of a recent conviction of Franco Ardani for permitting the sale of alcohol to underage persons. The court has not revoked his justices' licence. Franco Ardani and Claudio Lazzarini were first granted the provisional public entertainment licence in November 2000 and other than the above conviction there is nothing else known to their detriment. There is nothing known to the detriment of the third applicant Mr Gary Davies. The applicants would appear to be suitable but the licensees should be reminded of the requirement of recommendation 3 to this report to ensure that underage persons are not admitted to the bar.
- 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 May 2002. The hours requested at Bar Iguana are as granted to a number of premises with Special Hours Exemption Certificates in Winchester City Centre. The closing times are 12 midnight on Mondays to Wednesdays, 1 am on Thursday evenings, 2 am on Friday evenings and (within the policy guidelines) no later than 1 am on Saturday evenings. These premises have no extension (none is requested) and remains as 10.30pm on Sunday evenings. In light of the police report that 62 incidents have occurred after 11pm in Jewry Street, 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 2).
- 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 shorter period than one year in order that further monitoring of the premises can be carried out by both the Police and Council Officers. It is considered that six months would give sufficient time to monitor the conduct of the premises and any application to renew the licence could then be considered by this Committee with the benefit of the additional monitoring.
- 5.4 **Would the grant of this Licence affect the rights of residents under Article 8(2) of the European Convention on Human Rights?** It is considered that the grant of this Licence would not affect the rights of residents providing there is compliance with the existing conditions for public entertainment. 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 proportionate.
- 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?** No

representations have been received in response to the notice although the police have concerns regarding the underage drinking. The police also report that Jewry Street has the highest report of incidences of public disorder in Winchester although this cannot all be attributed to Bar Iguana. The food take away opposite opens late and the closing time has been referred to planning department for their comment.

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:

7.1 None

BACKGROUND DOCUMENTS:

Applications for the Transfer and Renewal of a Public Entertainment Licence for the Bar Iguana, Winchester.

APPENDICES:

1. Police Report
2. List of Premises in Winchester with Late Closing Times.
3. Map showing the location of Bar Iguana