

LICENSING AND REGULATION COMMITTEE

3 SEPTEMBER 2003

APPLICATION FOR THE RENEWAL AND VARIATION OF A PUBLIC ENTERTAINMENT LICENCE IN RESPECT OF THE OLD COACH HOUSE INN, HIGH STREET, WINCHESTER.

REPORT OF CITY SECRETARY AND SOLICITOR

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RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report is to consider an application by Mr Nicholas Karl Anthony Jukes for the renewal and variation of a public entertainment licence in force in respect of The Old Coach House Inn, High Street, Winchester. The application is for the renewal and a variation to the permitted hours of the public entertainment licence at present in force for these premises. The existing licence permits public entertainment between 11am and 11pm on Mondays, Wednesdays, Fridays and Saturdays and between 11am and 12 midnight on Tuesdays and Thursdays. The application is to vary the permitted hours to be between 11am and 11pm on Mondays, Tuesdays, Wednesdays and Saturdays and between 11am and 12 midnight on Thursdays and Fridays.

A Notice was posted at the premises for 28 consecutive days from 8 July 2003, which has resulted in 1 letter being received from a resident making representations. This letter is signed and includes the address but the writer does not wish the details to be published or disclosed to the applicant. The resident is concerned about the loud noise nuisance from the premises, particularly on Thursday evenings, when entertainment is provided in the form of Karaoke.

The Director of Health and Housing has been consulted and reports that there are two potential solutions to this issue - either to significantly reduce noise levels within the building, which may not be acceptable to the licensee or the clientele, or improve the insulation of the building including the provision of artificial ventilation.

The Police have no objections to the application. Winchester Police have checked the police licensing files but have found nothing to their detriment.

RECOMMENDATIONS:

- 1 That the licensee be advised to take steps to significantly reduce noise levels emitting from the premises at all times to the satisfaction of the Director of Health and Housing.
- 2 That the licensee be reminded that if noise levels cannot be significantly reduced, the continued use of these premises for the purposes of public entertainment may require the licensee to produce a report from a noise consultant on any works required. This would include consultation with the Director of Health and Housing on any proposals. Any works subsequently required by the Director of Health and Housing are to be completed within a specified time to his satisfaction.
- 3 That the licence be renewed to expire on 15 February 2004 (six months from the existing expiry date of 15 August 2003) in compliance with the Standard Conditions and Regulations of Winchester City Council and to include the following variations to the Additional Conditions :-
 - (i) The premises may be used for the purposes of this licence during the following times –

Mondays, Tuesdays, Wednesdays, and Saturdays from 11am to 11pm and Thursdays and Fridays from 11am to 12 midnight
 - (ii) The maximum number of persons permitted to be on the premises whilst in use for the purposes of this licence shall not exceed 200 persons.
 - (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 be maintained open by an electrical, mechanical or other device whilst the premises are in use for the purposes of this Licence.
 - (iv) The covered way leading from the courtyard to the High Street must be kept clear of all storage and obstructions at all times whilst the premises are in use for the purposes of this licence.
 - (v) The Licensees or other person nominated by them 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 noise or other nuisance received from any person.

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DETAIL:

1 Application

- 1.1 This application is for the renewal and variation of an existing public entertainment in respect of the Old Coach House Inn, High Street, Winchester, by the resident licensee Mr Nicholas Karl Anthony Jukes.
- 1.2 The variation is to change the existing permitted hours of entertainment. The existing hours are from 11am to 11pm Mondays, Wednesdays, Fridays and Saturdays and 11am to 12 midnight on Tuesdays and Thursdays. The application request that the hours become 11am to 11pm on Mondays, Tuesdays, Wednesdays and Saturdays with 11am to 12 midnight on Thursdays and Fridays.
- 1.3 The applicant, Mr Jukes has held a public entertainment licence for these premises since 1995 and has not previously been referred to this Committee.

2 Representations

- 2.1 A Notice was posted, visible from outside the premises, for 28 days from 8 July 2003.
- 2.2 One letter from a resident has been received but it has been requested that the writer's details are not disclosed. The resident accepts *"...that I will be subject to noise disturbance living on High Street and enjoy living in a vibrant area of Winchester, the noise levels and nature of entertainment at the "Old Coach House" are unacceptable after 11pm when the residents are trying to sleep – particularly on weekday evenings. Furthermore, the disturbance sometimes continues after 12pm, after which residents of the area must endure the noise of customers leaving, sometimes until 1am. The two other pubs in the area also have live music and late licences, but never disturb the neighbourhood in such an objectionable way."*
- 2.3 Mr Jukes, the licensee, has been shown a copy of the letter (with the writer's details removed) to enable him to comment.

3 Consultations.

- 3.1 Winchester Police have been consulted and report that there is nothing recorded to the detriment of these premises.
- 3.2 Hampshire Fire and Rescue have been consulted and have no additional comments concerning the requirements for fire safety for the licence at present in force for these premises.
- 3.3 The Director of Health and Housing has been consulted and reports that there are two potential solutions to this issue - either to significantly reduce noise levels within

the building, which may not be acceptable to the licensee or the clientele, or improve the insulation of the building including the provision of artificial ventilation. However, it is recommended that if the present noise levels cannot significantly be reduced, the applicant should be required to produce a report from a noise consultant on any works required and to consult the Director of Health and Housing on any proposals. Any works subsequently required by the Director of Health and Housing must be completed within a specified time (suggested 8 weeks) from the date of the requirement to his satisfaction and thereafter the premises may not be used for the purposes of this licence until the satisfactory implementation of such work.

3.4 The Ward Members of this Council have been notified of this application.

4 Other Information

4.1 The Old Coach House Inn (known as the India Arms until August 2000), High Street, Winchester is a public house where a full on licence is in force. Even without the benefit of a public entertainment licence certain entertainment is permitted during normal licensing hours, by way of television or radio or recorded music or by a maximum of two live performers. Entertainment by 3 or more persons, dancing or karaoke would not be permitted without the entertainment licence remaining in force.

4.2 The Crime and Disorder Act 1998 places a duty on the Council 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.

4.3 Paragraph 5(i) of Schedule 1 to 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 a shorter period should the Council think fit.

5 Issues for Consideration.

5.1 **Is the applicant a suitable person to continue to hold an entertainment licence?** It is considered that Mr Nicholas Karl Anthony Jukes is a suitable person to continue to hold this licence.

5.2 **Are the premises suitable to be used for public entertainment, given their physical condition and location, and considering public safety, noise, proximity to residential property and other relevant issues?** It is considered that the premises are suitable, providing the licensee can take steps to significantly reduce the noise levels emitting from the premises and there is compliance with the "Additional Conditions" set out in the Recommendation. The Director of Health and Housing recommends that if the present noise levels cannot significantly be reduced, the licensee should be required to produce a report from a noise consultant on any works required to reduce noise levels and to consult the Director of Health and Housing on any proposals. Any works subsequently required by the Director of Health and Housing must be completed within a specified time to his satisfaction.

5.3 **Are the changes of the hours of entertainment being sought acceptable? If the hours are not acceptable, should the application be refused or should alternative hours be specified?** The hours being sought are acceptable providing all loud music and karaoke end promptly at the recommended finishing time. Steps will need to be taken to reduce noise emissions from the premises. It may be

considered that having 12 midnight closing on Fridays is a more suitable option than the current 12 midnight closing on Tuesdays. Other premises have later closing times in Winchester (Appendix 1).

- 5.4 **If granted would this Licence have any effect on Crime and Disorder in the area?** It is considered that as this public house is located in the city centre in the vicinity of other premises with later closing times the renewal and variation of this licence should not have any additional affect Crime and Disorder in the area. The Police have reported they have no reason to object to the renewal and variation of this licence.
- 5.5 **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 proportionate.
- 5.7 **Are there any further relevant issues?** The representations from the resident concerning noise from persons after closing time may refer to persons leaving other late night premises. (Appendix 1).

OTHER CONSIDERATIONS:

CORPORATE STRATEGY (RELEVANCE TO):

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

RESOURCE IMPLICATIONS:

None.

BACKGROUND DOCUMENTS:

Application for the renewal and variation of a Public Entertainment Licence in respect of the Old Coach House Inn public house, High Street, Winchester.

APPENDICES:

- 1 Premises in Winchester which Close after 11pm.
- 2 Plan showing the lay out of the Old Coach House Inn.
- 3 Map showing the location of The Old Coach House Inn, High Street, Winchester.