

LICENSING AND REGULATION COMMITTEE

8 OCTOBER 2003

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE IN
RESPECT OF THE RUNNING HORSE, POUND HILL, ALRESFORD.

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters Tel No: 01962 848218

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report is to consider an application by Ms Deborah Smith and Mr Ronald Kim Eastwood for the grant of a public entertainment licence in force in respect of The Running Horse public house, Pound Hill, Alresford. The application is for entertainment to be permitted between 12 midday and 11pm Thursdays, Fridays, Saturdays and Sundays although the applicants have indicated that it is not intended to have entertainment on four nights each week. They are also seeking flexibility for use of a low volume karaoke machine on request by customers.

A Notice was posted at the premises for 28 consecutive days from 2 August 2003, which has resulted in thirteen (13) letters being received from nearby residents making representations concerning this application. The residents have concerns about noise nuisance both from the premises, the garden and by persons leaving the premises late at night.

The Director of Health and Housing has been consulted and recommends that the number of occasions when the premises should be used for the purposes of this licence should be restricted to no more than two occasions in a month, other than karaoke, with doors and windows kept shut.

The Police have no grounds to object to this licence but would monitor the premises should the licence be granted.

RECOMMENDATIONS:

- 1 That the licence be granted for compliance with the Standard Conditions and Regulations of Winchester City Council and to include the following Additional Conditions:-
 - (i) The premises, described as the inside bars of the Running Horse Public House, may be used for the purposes of this licence during the following times –
 - Thursdays to Saturdays inclusive from 12.00 midday to 11.00pm
 - Sundays from 12 midday to 10.30pm.
 - (ii) Any machine used for purpose of providing entertainment in the form of karaoke shall be approved by the Council before use and shall only be used in compliance with any requirement restricting the sound levels of such a machine made by the Director of Health and Housing.
 - (iii) The premises may only be used for the purposes of this licence, excluding entertainment provided by any karaoke machine approved by the Council, on not more than two occasions in any one calendar month.
 - (iv) Except for entertainment provided by any karaoke machine approved by the Council, the City Secretary and Solicitor shall be notified at least seven days in advance of the dates that it shall be intended to use the premises for the purposes of this licence.
 - (v) 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.
 - (vi) The maximum number of persons permitted to be on the premises whilst in use for the purposes of this licence shall not exceed 100 persons in the whole premises.
 - (vii) 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.
- 2 That the licensees be reminded of the need to continue to take all possible steps to minimise any nuisance to residents caused by persons leaving the premises.
- 3 That the licensees be reminded that only the inside bars of the Running Horse are licensed for the purposes of public entertainment and no public entertainment may take place in the garden.

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DETAIL:

1 Application

- 1.1 This application is for the grant of a public entertainment in respect of the Running Horse public house, 22 Pound Hill, Alresford by the resident licensees Ms Deborah Smith and Mr Ronald Kim Eastwood.
- 1.2 Ms Smith has a number of years experience in the licensing trade. She is the holder of the Justices' licence for the Running Horse jointly with Mr Eastwood. Ms Smith is also the licensee of a public house in Didcot but Mr Eastwood has not previously held a Justices' licence.
- 1.3 The Running Horse has been a public house for many years and, although a public entertainment licence was held for these premises between November 1994 and November 1995, has not been used for the purposes of entertainment. The application for public entertainment relates only to the inside bars of the premises and does not include the garden.

2 Representations

- 2.1 A Notice is required to be posted, visible from outside the premises, for a minimum period of twenty-eight days. A Notice was posted at the premises from 1 August 2003 until 5 September 2003.
- 2.2 Thirteen letters making representations have been received from residents living nearby in Pound Hill and Park Mount. The letters from residents include their concerns about noise, including bad language, from the premises and garden together with the rowdiness of persons leaving the public house at closing time. (Appendices 1A – 1M).

3 Consultations

- 3.1 Alresford Police have been consulted. Sergeant Curson has responded that the police have no grounds for objecting to the grant of this licence but he has advised the licensees regarding the need to take steps to prevent nuisance to residents when customers are leaving the premises. It is further stated that if the licence is granted the police will closely monitor the premises.
- 3.2 The Chief Building Control Surveyor has been consulted and in consultation with Hampshire Fire and Rescue Service has assessed the maximum number of persons (public) that may be in the bars whilst the premises are in use for the purposes of public entertainment should not exceed 100 for the whole premises.
- 3.3 The Director of Health and Housing has been consulted and reports that complaints have been received from residents of both noise from the premises and a barking dog kept at the rear of the public house during the day. The Environmental

Protection team is currently investigating these complaints. It is recommended that all doors and windows on both elevations are kept shut whilst entertainment is taking place and that the premises should be used for this purpose on no more than two occasions a month.

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

3.5 New Alresford Town Council have been consulted.

4 Other Information

4.1 The Running Horse, Pound Hill, Alresford is a public house where a full on licence is in force. A public entertainment licence was held for these premises between November 1994 and November 1995. The hours permitted at that time was between 11am and 11pm Mondays to Saturdays inclusive and from 12 midday to 3pm & 7pm to 10.30pm on Sundays. There are no complaints on file for this period although it is believed that no regular entertainment took place during the period of this licence. 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 an entertainment licence being in force.

4.2 The applicants are seeking the use of the karaoke machine on request by the customers at weekends and do not wish to be restricted on the number of occasions when this type of entertainment is permitted but do not have concerns about the number of occasions when other types of entertainment are permitted.

4.3 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.

4.4 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 **Are the applicants suitable persons to whom the licence may be transferred?** It is considered that they are suitable.

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, providing there is compliance with the "Additional Conditions" set out in the Recommendation, including the approval of the karaoke machine, the premises are suitable. Only the inside bars of the premises are to be licensed for the purposes of public entertainment and the garden is not to be included.

5.3 **Are 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 entertainment ends promptly at 11pm. It may be considered that the premises should be only used for

the purposes of public entertainment on no more than two occasions a month except use of the “approved” karaoke machine.

- 5.4 **If granted would this Licence have any effect on Crime and Disorder in the area?** It is considered that as the hours of entertainment requested end at 11pm which is the normal closing time for a public house, there should be no additional adverse effect on crime and disorder in the area. The Police have no evidence that this licence would have an effect on crime and disorder and have no grounds to object to the grant 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 which may mean that the licence should not be granted?** There are no other relevant issues.

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:

Application for the grant of a Public Entertainment Licence in respect of the Running Horse public house, Pound Hill, Alresford and letters of representation in Appendix 1.

APPENDICES:

- 1A – 1M Letters of representation from residents (13)
- 2 Plan of Bars of the Running Horse public house, Alresford.
- 3 Map showing the location of The Running Horse, Pound Hill, Alresford.