

LICENSING AND REGULATION COMMITTEE

18 February 2004

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE IN
RESPECT OF THE FORESTER, NORTH WALLS, WINCHESTER.

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters and Ceri Ponzi Tel No: 01962 848443

RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

This report is to consider an application by Mr Martin Meijer and Mr Kit Butler for the grant of a public entertainment licence in respect of The Forester public house, North Walls, Winchester. The application is for public entertainment to be permitted between 7pm and 11pm on Mondays to Saturdays and from 7pm to 10pm on Sundays.

A Notice was posted at the premises for 28 consecutive days from 3 December 2003, which has resulted in 1 letter being received from a resident making representations. The writer lives in Parchment Street and has a number of concerns which include that the consultation period is too short, that there is a potential for an increase in noise nuisance, that an entertainment licence is out of the character for an area like Parchment Street which is in a conservation area, that it may change the type of customer, that there is the possibility of an increase in street violence and that the public entertainment licence should not be imposed on residents. (Appendix 2)

The licensees have also distributed a written circular to residents living in the vicinity of the public house in North Walls and Parchment Street. The circular gives details of their proposals for the use of the premises for the purposes of public entertainment. No representations have been received in response to the circular (Appendix 1).

The Director of Health and Housing has been consulted and notes that the application is for entertainment to end no later than 11pm. He further comments that no complaints have been received during the past year but would seek that the licence is not granted for more than six months in the first instance in order that the premises can be monitored.

The Police have no objections or comments to make concerning this application.

RECOMMENDATIONS.

1. That the Licence be granted for a period of six months and in compliance with the Standard Conditions of the Council. The following "Additional Conditions" to be included in the Licence :-
 - (i) the hours during which the premises may be used for the purposes of this Licence shall be as follows :-

Mondays to Saturdays inclusive from 7.00pm to 11.00pm.

Sundays from 7.00pm to 10.00pm.
 - (ii) The maximum number of persons permitted to be in the premises whilst in use for the purpose of this Licence shall not exceed 80.
 - (iii) That the number of occasions that the premises may be used for the purposes of this licence shall not exceed 4 occasions in any one week between Sunday and Saturday.
 - (iv) 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.
 - (v) The Licensees or another 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 nuisance received from any person.
2. That the applicants are advised of the need to take all possible steps to reduce any nuisance to residents.

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DETAIL:

1 Application

- 1.1 This application is for the grant of a public entertainment in respect of The Forester, North Walls, Winchester, by the resident licensees Mr Martin Meijer and Mr Kit Butler. The Forester public house, 71 North Walls, Winchester is located at the junction of North Walls with Parchment Street. Although a Public Entertainment Licence was in force for these premises (then known as the Foresters Arms) in 1993 and 1994, there has been no entertainment licence in force for these premises since that time.
- 1.2 The permitted hours of entertainment requested are –

Mondays to Saturdays inclusive from 7.00pm to 11.00pm and

Sundays from 7.00pm to 10pm.
- 1.3 Mr Martin Meijer has been the holder of the Justices on licence and the tenant for The Forester public house for one year having being in possession of the appropriate qualification. Prior to this he had not previously held a licence but was employed in a design and administrative capacity by the Whitbread group with some experience as a barman. Mr Kit Butler has recently become the joint licence holder for The Forester having previously been the bar manager for Loch Fyne restaurant in Jewry Street, Winchester for 4 years. Both applicants appear suitable persons to whom this licence could be granted although neither has previously held a Public Entertainment Licence.

2 Representations

- 2.1 A Notice of this application was posted, visible from outside the premises for 28 days, from 3 December 2003.
- 2.2 The licensees have also distributed a written circular, dated 15 December 2003 but circulated on 13 January 2004, to nearby residents living in North Walls and Parchment Street. The circular gives details of their proposals for the use of the premises for public entertainment. (Appendix 1).
- 2.3 One letter from a resident has been received in response to the Notice of the application posted at the premises. The writer lives in Parchment Street and has a number of concerns including –

- the consultation period is too short,
- the potential that there will be an increase in noise nuisance,
- an entertainment licence is out of the character for an area like Parchment Street which is in a conservation area,
- it may change the type of customer using these premises,
- it may lead to the possibility of street violence and
- that the licence should not be imposed on residents. (Appendix 2.)

2.4 No representations have been received in response to the applicants' circular.

2.5 The applicants have been shown a copy of the letter to enable them to comment.

3 Consultations.

3.1 The Director of Health and Housing has been consulted. It is noted that these premises have employed two live entertainers on occasions during the past year but reports that no complaints have been received. Although it is also noted that the application is for an end time of no later than 11pm, it is recommended that the licence is initially granted for six months (instead of one year) in order that the Environmental Protection team can monitor the situation to ensure that music and associated sources are not audible at noise sensitive properties. The Licensees have also agreed to restrict the number of occasions when public entertainment is provided to four times per week.

3.2 The Police have been consulted and have no objections or comments concerning this application.

3.3 Hampshire Fire and Rescue have been consulted and have no comments concerning the requirements for fire safety for these premises.

3.4 The Ward Members have been notified of this application.

4 Other Information

4.1 The Forester is a public house where a full on licence is in force. 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 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 **Are the applicants suitable persons to hold an entertainment licence?** It is considered that as Mr Martin Meijer and Mr Kit Butler are the current Justices' licence holders for these premises they are suitable persons to whom a public entertainment licence could be granted.
- 5.2 **If renewed should the Licence be renewed for the maximum time of one year or a shorter period?** It is considered that the licence should be granted for a period of six months as set out in paragraphs 5.3 and 5.4 below.
- 5.3 **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 applicants take any possible steps to reduce the noise levels emitting from the premises. The Director of Health and Housing is seeking that the licence be only granted for six months in the first instance in order that monitoring can be carried out to confirm the suitability of the premises.
- 5.4 **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 all music and associated noise sources end promptly at 11pm. If granted it is also recommended that the premises are not used for the purposes of public entertainment on more than four occasions in one week.
- 5.5 **If granted would this Licence have any effect on Crime and Disorder in the area?** It is considered that as the public house is not seeking a closing time later than 11pm on any day the grant of this licence should not have any additional effect on Crime and Disorder in the area. The Police have reported they have no reason to object to the grant of this licence and have no other comments.
- 5.6 **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 applicants' right to use of their 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 express concerns regarding the potential increase and other nuisance in Parchment Street, should this licence be granted (Appendix 2). However, the Applicants have circulated a letter to nearby residents, to which no responses have been received: any further representations will be reported verbally. The fact that the premises are in a conservation area is a planning, rather than a licensing, matter. The type of

customers is not directly relevant to the licence application, and the police have commented that they have no objections (see above).

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 grant of a Public Entertainment Licence in respect of the Forester public house, North Walls, Winchester.

APPENDICES:

- 1 Letter circulated to residents by applicants.
- 2 Resident's Letter making representations.
- 3 Police Report.
- 4 Plan of Bar.
- 5 Map showing the location of the Forester, North Walls, Winchester.