

LICENSING AND REGULATION COMMITTEE

18 February 2004

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE IN
RESPECT OF THE BLONDE BEER CAFÉ, BRIDGE STREET, WINCHESTER.

REPORT OF CITY SECRETARY AND SOLICITOR

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

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This application by Mr Paul Justin Ayres and Mr Darren James Ayres is for the grant of a Public Entertainment Licence for premises known as Blonde Beer Café (public house), 5 Bridge Street, Winchester. It is requested that entertainment be permitted on Thursdays between 12 noon and 12.00 midnight, Fridays between 12.00 noon and 1.00am (Saturday) and Saturdays between 12 noon and 1.00am (Sunday).

A Notice was posted outside the premises for 28 consecutive days from 20 November 2003 and a newsletter was circulated in January 2004 by the applicants to 140 nearby residents in Bridge Street, St Johns Street and Water Lane. No letters making representations have been received from residents.

The Director of Health and Housing has been consulted and has concerns that there is a potential for noise nuisance from these premises and recommends that any licence should include suitable conditions to minimise the noise emissions. The doors and windows on the outside of the premises must be kept shut after 9 p.m., and no persons should be allowed to sit outside in the garden after 9 p.m. whilst the premises are in use for public entertainment.

The Police have been consulted regarding this application and state that they have no objections on the grounds of crime and disorder to the granting of the Licence.

RECOMMENDATIONS:

- 1 That the licence be granted for one year to be in 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 Blonde Beer Café, may be used for the purposes of this licence during the following times –

Thursdays from 12 noon to 12 midnight,

Fridays from 12 noon to 1.00am the next day, and

Saturdays from 12 noon to 1.00am the next day.
 - (ii) 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.
 - (iii) Whilst the premises are in use for the purposes of this Licence no customers shall be permitted to be in the garden for any purpose after 9pm.
 - (iv) 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.
 - (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.
- 2 That the applicants be reminded of the need to take all possible steps to minimise any nuisance to residents caused by persons leaving the premises.
- 3 That the applicants be reminded that only the inside bars of the Blonde Beer Café are licensed for the purposes of public entertainment and no public entertainment may take place in the garden.
- 4 That the applicants be asked to give an undertaking that customers should not be permitted to be in the garden for any purpose (at times when the premises are not in use for public entertainment) after 11pm.

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DETAIL:

1 Application

- 1.1 This application is for the grant of a Public Entertainment Licence in respect of the Blonde Beer Café public house, 5 Bridge Street, Winchester, Paul Justin Ayres and Darren James Ayres. The Blonde Beer Café (previously known as The Cricketers) has been a public house for many years but it has never previously had the benefit of a Public Entertainment Licence.
- 1.2 Mr Paul Ayres has been working in the licensing trade for 10 years and has been the holder of a full Justices on-licence in Guildford for 5 years and for the Blonde Beer Café since September 2003. Mr Darren Ayres has been the joint holder of the Guildford licence during the past five years. Mr Paul or Mr Darren Ayres have not, until recently, been the holders of a Public Entertainment Licence, but they now hold a Public Entertainment Licence for their premises in Guildford. There is nothing known to the detriment of either applicant and they would appear to be suitable persons to hold a Public Entertainment Licence for The Blonde Beer Café.
- 1.3 The application is for a Public Entertainment Licence to be granted to be in force on Thursdays from 12 noon to 12 midnight, Fridays from 12 noon to 1 am and on Saturdays from 12 noon to 1 am.

2 Representations

- 2.1 A Notice of the application is required to be posted, visible from outside the premises in a public place, for a minimum period of twenty-eight days and was posted at these premises from 20 November 2003.
- 2.2 The applicants have circulated a newsletter to the homes of 140 nearby residents in St Johns Street and Water Lane, at the end of January, setting out the proposals for the use of the premises for entertainment. (Appendix 1).
- 2.3 No letters making representations have been received from residents either in response to the Notice or the Applicants' circulation.

3 Consultations.

- 3.1 Winchester Police have been consulted and they have no grounds for objecting to granting this licence, as there is no evidence that this would have an effect on crime and disorder in the area
- 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) permissible in the bars whilst the premises are in use for public entertainment, and states that this should not exceed 100 for the whole premises.

- 3.3 The Director of Health and Housing has been consulted. There are no objections to the grant of this licence provided that the outside windows and doors are kept shut and persons are not permitted in the outside area after 9 p.m. This would assist in reducing the noise escaping from the premises via the doors between the garden and the building, and it would also reduce any nuisance caused by customers in the garden. The Licensees are also advised to monitor the area to ensure that noise is not causing a disturbance. In addition, noise may break out through the ducting of the air conditioning system. If this is the case, acoustic treatment may be required.
- 3.4 The Ward Members of this Council have been notified of this application.

4 Other Information

- 4.1 The Blonde Beer Café at 5 Bridge Street, Winchester (previously known as The Cricketers) is a public house where a full on licence is in force but there has not previously been a Public Entertainment Licence in force for these premises. 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 be the holders of a public entertainment licence?** It is considered that they are suitable. Both Mr Paul Ayres and Mr Darren Ayres have been the holders of the Justices' on licence for these premises since September 2003, and have been the on-licence holders for a public house in Guildford for the past 5 years. Mr Paul Ayres has worked in the licensing trade for 10 years. The applicants have recently been granted a Public Entertainment Licence for their premises in Guildford.
- 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 proposed "Additional Conditions" set out in the Recommendation, the premises are suitable. Only the inside bars of the premises are to be licensed for the purposes of public entertainment and the outside area is not to be included. The inclusion of a condition preventing the use of the garden after 9.00pm on occasions when the licence is in use will also assist.
- 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 for entertainment, providing care is taken by the applicants to take all possible steps to prevent noise or other nuisance to residents.

- 5.4 **If granted would this Licence have any 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 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 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 Blonde Beer Café and a newsletter circulated to residents by applicants in Appendix 1.

APPENDICES:

- 1 Newsletter circulated by applicants to nearby residents.
- 2 Plan of the public house.
- 3 Map showing the location of Blonde Beer Café public house.