

LICENSING AND REGULATION COMMITTEE

5 October 2004

APPLICATION FOR THE VARIATION OF A PUBLIC ENTERTAINMENT LICENCE –  
RAILWAY INN, ST PAUL'S HILL, WINCHESTER

REPORT OF CITY SECRETARY AND SOLICITOR

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RECENT REFERENCES:

EH 575 (LIC) 29 November 1999. Transfer and Variation of PEL for Railway Inn.

EXECUTIVE SUMMARY:

This report is to consider an application to extend the permitted hours and vary the conditions of entertainment, allowed by the Public Entertainment Licence for the Railway Inn, St Paul's Hill, Winchester.

The current permitted hours are; Monday to Thursday 11.00 am to 11.00 pm, Friday and Saturday 11.00 am to 12.00 midnight, Sunday 12.00 midday to 3.00 pm and 7.00 pm to 10.30 pm. This application seeks to extend the permitted hours for the PEL to 1.00 am on Friday and Saturday. A condition of the licence is that no music will be played by live bands after 11.00 pm on any day. The applicants wish this condition to be varied to 12.00 midnight on Friday and Saturday. A Notice of Intention was posted outside the premises for 28 consecutive days from 25 June 2004.

The Police have been consulted and have no adverse comments to make regarding the premises. (Appendix 1 a. & b.)

The Director of Health and Housing has been consulted and objects to the grant of the variation on the grounds that the premises is surrounded by dense housing and that there would be considerable potential for noise disturbance to residents, particularly when people are leaving the premises. (Appendix 2)

Several letters have been received from local residents and City Councillors making representations about the noise and potential for public disorder. (Appendices 3 a - m)

RECOMMENDATIONS:

- 1 That the application to vary the permitted hours of the Public Entertainment Licence be refused.

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DETAIL:

1 Details of Application

1.1 This application is to consider a variation of the hours and conditions of the Public Entertainment Licence for the Railway Inn, St Paul's Hill, Winchester, by the current licencees, Frederick Owen Eynon, Linda Eynon, Caroline Susan Struder and Victor James Stephen Toms.

1.2 The licence at present in force has been granted for compliance with the standard conditions and regulations approved by Winchester City Council and the following additional conditions:-

(i) *That the hours during which the premises may be used for this Licence shall be as follows:-*

*Mondays to Thursdays from 11.00 am to 11.00 pm.*

*Fridays and Saturdays from 11.00 am to 12.00 Midnight*

*Sundays from 12.00 midday to 3.00 pm and 7.00 pm to 10.30 pm*

(ii) *Entertainment shall be permitted in those parts of the premises known as the Function Room and the Public Bar.*

(iii) *The maximum number of persons permitted to be in the premises whilst in use for the purposes of this Licence shall not exceed 100 in the Function Room and 70 in the Public Bar.*

(iv) *That all doors and windows that are capable of being opened directly to the outside of the premises shall not be kept open, wedged or maintained open by a mechanical or other device whilst the premises are in use for the purposes of this Licence.*

(v) *The entertainment provided after 11.00 pm on any day shall not include music played by live bands.*

(vi) *All persons leaving the premises after 11.00 pm shall be directed to leave the premises via the exit from the Public Bar into St Paul's Hill. The exit doors from the Function Room into Railway Inn car park must remain available for use but shall only be used after 11.00 pm in the event of an emergency.*

- 1.3 The first request for variation is to extend the permitted hours of entertainment under Condition (i) on Fridays and Saturdays from 11.00 pm to 12.00 midnight.
- 1.4 The second request is to vary Condition (v) of the licence which states "The entertainment provided after 11.00 pm on any day shall not include music played live bands." The variation sought is to extend this condition to 12 midnight on Fridays and Saturdays.
- 1.5 These premises have been licensed as a Public House for many years with the benefit of a full On Licence and a Public Entertainment Licence. It also has a Special Hours Certificate to enable the Licensee to supply alcohol to 12.00 Midnight on Fridays and Saturdays. The grant of this application would enable the Licensees to apply to vary that Special Hours Certificate to include the later times on Fridays and Saturdays.

## 2 Consultations, Publicity and Representations

- 2.1 A notice of the application was posted, visible from outside the Railway Inn for a period of 28 days from 25 June 2004.
- 2.2 Letters of objection have been received from eight households in the vicinity and one from a Ward Councillor. They are concerned about the noise from live bands, noise from patrons who sit outside and the noise caused by patrons leaving the premises. They also cite "drunkenness, loutish behaviour, vandalism and litter" in their letters. (Appendices 3 a - m)
- 2.3 Winchester Police have been consulted and have no adverse comments to make. They have no recorded problems at the premises. There is a disorder problem at Oram's Arbour. However the Police have no evidence to link this with the patrons from the Railway Inn. (Appendix 1 a & b)
- 2.4 The Director of Health and Housing has been consulted and objects to the grant of the variation on the grounds that the premises is surrounded by an area of dense housing. Whilst the Department has not received recent noise complaints, it is felt that by altering the finishing time of the entertainment there would be considerable potential for noise disturbance to neighbouring residents, particularly when people are leaving the premises. (Appendix 2)
- 2.5 The Head of Building Control has been consulted and as no building alterations are to take place, has no comment to make.

## 3 Other Information

- 3.1 Paragraph 5 (i) 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 see fit.
- 3.2 The Crime and Disorder Act 1988 places a duty on the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions, to all that it reasonably can to prevent crime and disorder in its area.

#### 4 Issues for Consideration

- 4.1 **Have the applicants shown themselves to be suitable persons to manage premises where a Public Entertainment Licence is in force?** There are no adverse reports concerning any of the licensees.
- 4.2 **Are the premises suitable for licensing for Public Entertainment, considering public safety, noise, proximity to residential property and other relevant issues?** The premises is considered suitable for the maximum capacity provided for in the current Licence, 100 in the Function Room and 70 in the Public bar. There are no recent recorded complaints of noise from the premises. The premises is situated in an area of dense housing so there is potential for noise disturbance.
- 4.3 **Are there any issues relating to Crime and Disorder which should be taken into account?** The Police have no concerns over the running of these premises. There are representations from residents who claim that patrons from the premises frequent Oram's Arbour and cause problems. The Police confirm there are disorder problems at Oram's Arbour, but there is no evidence to connect these problems to the Railway Inn.
- 4.4 **Are the hours being sought acceptable or should alternative hours be specified, or should there be no change to existing hours?** The grant of the PEL allows the licensees to provide entertainment. In this case the entertainment is often by way of live bands. Although the Licence permits entertainment until 12.00 midnight on Fridays and Saturdays, there is a condition attached to the Licence preventing live bands to perform after 11.00 pm. Residents fear that an extension of hours on these nights will lead to further disturbance, crime and disorder.
- 4.5 **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. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

#### 5 CORPORATE STRATEGY (RELEVANCE TO):

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

#### 6 RESOURCE IMPLICATIONS:

- 6.1 None.

#### BACKGROUND DOCUMENTS:

Application to transfer and vary the Public Entertainment Licence in respect of the Railway Inn, St Paul's Hill, Winchester.



APPENDICES:

- 1a Police Report 1
- 1b Police Report 2
- 1c Police Report 3
- 2 Environmental Health Report
- 3a Letter from RH & NJ Austin
- 3b Letter from Mr GM Burgess
- 3c Letter from TM Cuuran & K Beelders
- 3d Letter from PM Edwards
- 3e Letter from Mary Furness
- 3f Letter from Christopher & Francesca Hansford
- 3g Letter from Matthew Lewis
- 3h Email from Jock & Jane MacDonald
- 3i Email from Dick Selwood
- 3j Letter from Esther Hack
- 3k Letter from Miss J Sandison
- 3l Letter from Bruce Raven and Susan Hartley
- 3m Email from Councillor Ray Love
- 4 List of premises closing after 11.00 pm weekdays and 10.30 pm Sundays
- 5 Map showing location of the Railway Inn, St Paul's Hill, Winchester