

LICENSING SUB-COMMITTEE

20 July 2005

RENEWAL AND VARIATION OF PUBLIC ENTERTAINMENT LICENCE FOR THE  
FULFLOOD ARMS, CHERITON ROAD, WINCHESTER

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: John Myall Tel No: 01962 01962 848443

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This application is to renew and vary the Public Entertainment Licence for the Fulflood Arms, Cheriton Road, Winchester. The premises already holds a licence allowing entertainment on Sundays between the hours of 2030 and 2230 on no more than TWO occasions on in any one calendar month, with a maximum capacity of 70 persons. The applicants wish to extend the time permitted for entertainment to 2000 to 2230, an increase of 30 minutes at the start, on those two occasions.

There have been a number of representations to the variation, and some support, from local residents, which are shown in the appendices.

RECOMMENDATIONS:

- 1 That the application to renew and vary the Public Entertainment Licence is granted subject to the following conditions:-
- (i) The hours during which the premises may be used for the purposes of this licence shall be:-
- Sundays from 2000 to 2230***
- (ii) The premises shall not be used for the purposes of this Licence on more than TWO occasions in any one calendar month without the written permission of the Council.
- (iii) The maximum number of persons permitted to be admitted to the premises whilst in use for the purposes of this licence shall be 70.
- (iv) All windows must be kept closed whilst the premises are in use for the purposes of this Licence.
- (v) All doors which are capable of being opened to the outside must be kept closed whilst the premises are in use for the purposes of this Licence except for access and egress.
- (vi) The Licensee or his representative is to monitor noise levels at the boundary of the site to assess whether the noise is likely to disturb nearest residential property. If levels are likely to cause disturbance suitable action must to be taken which could include reducing the volume of music.
- (vii) The entertainment shall finish promptly at 2230.

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#### Report of City Secretary and Solicitor

#### DETAIL:

##### 1 Introduction

- 1.1 The Fulflood Arms is a public house situated on the corner of Cheriton Road and Western Road. It has the benefit of a Justices' Licence for the usual Permitted Hours for the sale of alcohol, and an existing Public Entertainment Licence (PEL) which has been in force since 2002.
- 1.2 The premises are within an area of fairly high concentration of residential properties, adjacent to two sides of the premises, and opposite on three corners of a crossroads.
- 1.3 The PEL was originally granted for every day of the week. In May 2003 It was varied to have effect no more than two occasions per month between the hours of 2030 and 2230, then in 2004 it was again varied to the current two Sundays per month. It was not always used by the previous licensee but has been employed more since the current applicants became the licence holders in November 2004.
- 1.4 The entertainment is provided under the licence from 2030 to 2230 on two Sundays per month. On occasions when General Orders of Exemption are granted by the Licensing Justices (Bank Holiday weekends) this has the effect of extending the terminal hour to that of the extension.
- 1.5 The application is to renew the licence and to vary the hours whilst still being limited to two Sundays per month. The original application was to extend the terminal hour by 30 minutes to 2300. After discussions with the applicants, this was amended to 30 minutes extra at the beginning; to start at 2000 and finish at 2230.
- 1.6 The Police and Fire Services have been consulted and have no representations to make.
- 1.7 The Director of Communities has been consulted and reports that there have been some noise complaints recorded against the premises. He has made some recommendations in order to limit the disturbance. These are reflected in the recommended conditions, should the application be granted.
- 1.8 A notice advertising the application to renew and vary the licence was posted, visible from the outside of the premises, for a period of 28 days from 31 March 2005. As a result of consultations with the applicants, a further notice was displayed for 28 days, with the amended start and finish times, from 3 June 2005.
- 1.9 There have been a number of representations, to the renewal and variation, made by nearby residents. They complain of increased noise during the events. The letters are attached as appendices.
- 1.10 There have also been a number of letters of support for the application from local residents. These letters are attached as appendices.

## 2 Issues for Consideration

- 2.1 **Are the premises suitable for licensing for public entertainment, considering public safety, noise, proximity to residential property and other relevant issues?** The premises are situated on a crossroads with residential properties on all sides. Some of the widows have extractor fans built in and there is limited capability to attenuate noise from the premises. There is also an external door which is used to access the gentlemen's toilet which is another source for the escape of sound. The Director of Communities recommends that the events are limited to the two Sundays per month as specified in the application, that the Licence includes express conditions to keep all doors (except for access and egress) and windows closed during performances and the Licensee regularly monitors noise levels from the boundary to the site to ensure that volume is kept to a reasonable level
- 2.1 **Are the hours being sought acceptable or should alternative hours be specified or should there be no change to existing hours?** The hours applied for appear reasonable as the entertainment will still finish at 2230. There should be no encores after the terminal hour.
- 2.2 **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 her 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.

### OTHER CONSIDERATIONS:

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

- 3.1 This report covers issues which affect the Community Safety, Economic Prosperity, and Cultural and Leisure Opportunities of the Corporate Strategy.

#### 4 RESOURCE IMPLICATIONS:

- 4.1 None

### BACKGROUND DOCUMENTS:

None

APPENDICES:

1. Applicant Correspondence
  - 1.1 Application Form
  - 1.2 Letter to Residents 9 May 2005.
  - 1.3 Letter amending application
2. Director of Communities
  - 2.1 Memo from Environmental Protection Officer
3. Letters of objection.
  - 3.1 Mr S Shergold
  - 3.2 Ms A Bougard
  - 3.3 Mr J Boughton
  - 3.4 Mr D Hurren
  - 3.5 Mr G Taylor and Ms J Hurley
  - 3.6 Mr M Noakes
  - 3.7 Mr D Banyard
  - 3.8 Mr D and Ms E Wilkinson
  - 3.9 Mr J Hamilton and Ms C Saunders
  - 3.10 Mr R Abell
  - 3.11 Ms A Tomlinson
  - 3.12 Ms E Lowe
4. Letters of Support.
  - 4.1 Mr R and Ms J Stagg
  - 4.2 M Crombie and 11 others
  - 4.3 Mr R Perry
  - 4.4 Mr C Reed
  - 4.5 Mr M Lee
  - 4.6 Mr R Dixon
  - 4.7 Ms P Wakeham and Mr V Mills
  - 4.8 Mr R Henley

- 4.9 M Sheppard
- 5. Other Documents
  - 5.1 Letter from Licensing Manager to objectors 3 June 2005
  - 5.2 Anonymous letter to residents 20 June 2005
  - 5.3 Map showing location of premises