

LICENSING AND REGULATION COMMITTEE

3 SEPTEMBER 2003

APPLICATION FOR THE RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE IN
RESPECT OF THE FOX AND HOUNDS, SCHOOL LANE, DENMEAD.

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters Tel No: 01962 848188

RECENT REFERENCES:

LR 39 - Application for a Public Entertainment Licence in respect of The Fox And Hounds, School Lane, Denmead - 26 June 2001.

EXECUTIVE SUMMARY:

This report is to consider the application for the renewal of a public entertainment licence in respect of a public house known as The Fox and Hounds, School Lane, Denmead. This licence was first granted in June 2001 after consideration by this Committee following representations from residents. The use of these premises for public entertainment is restricted to no more than ten occasions in one year between 6pm and 10pm.

There is no application to transfer the licence, which is held by Mr Stephen Paul. Mr Paul is also the holder of the Justices' On Licence for these premises.

In response to the Notice of Application seven letters have been received making representations. One letter from a resident of Upper Crabbick Lane is concerned about noise, failure to keep the windows shut, parking and danger of children running into the road. The other six letters are identical from residents and persons living away from the premises expressing concerns that the public house does not have sufficient parking and extra entertainment will create a hazard due to persons parking on the roads.

The Police have no objection and have no incidents recorded relating to these premises. The Director of Health and Housing has been consulted and has received no complaints concerning noise during the past year.

RECOMMENDATIONS:

- 1 That the licence be granted for one year to be held by Mr Stephen Paul, in compliance with the Standard Conditions and the following "Additional Conditions":
 - (i) The premises shall not be used for the purposes of this Licence on more than ten days in any one year and the City Secretary and Solicitor shall be notified at least seven days in advance of any such proposed use.
 - (ii) The hours during which the premises may be used for the purposes of this licence, on the permitted number of occasions, shall be on Mondays to Saturdays from 6pm to 11pm.
 - (ii) The maximum number of persons permitted to be admitted to the premises, whilst in use for the purposes of this licence, shall be 100.
 - (iii) 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, electrical or other device, at any time whilst the premises are in use for the purposes of this Licence.
- 2 That the licensees be reminded of the need to take all possible steps reduce any noise or other nuisance to residents at or in the vicinity of The Fox and Hounds.
- 3 That the applicant be advised that the licence does not permit any form of musical entertainment outside of the building.

LICENSING AND REGULATION COMMITTEE

3 SEPTEMBER 2003

APPLICATION FOR THE RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE IN RESPECT OF THE FOX AND HOUNDS, SCHOOL LANE, DENMEAD.

Report of CITY SECRETARY AND SOLICITOR

DETAIL:

1 Applications

- 1.1 This application by Mr Stephen Paul is for the renewal of a public entertainment licence in respect of The Fox and Hounds Public House, School Lane, Denmead in its present terms and conditions.
- 1.2 The application is to permit the holding of various events at the public house, within the building, when a public entertainment licence is required in addition to the full On Licence granted by the Justices. The maximum number of occasions for which a public entertainment licence would be required is on ten occasions in a year. This was varied from six occasions, when the licence was first granted in June 2001, to ten occasions when the licence was renewed in June 2002.
- 1.3 The existing public entertainment licence includes the following "Additional Conditions" :-
 - (i) The premises shall not be used for the purposes of this Licence on more than ten days in any one year and the City Secretary and Solicitor shall be notified at least 7 days in advance of any such proposed use.
 - (ii) The hours during which the premises may be used for the purposes of this licence, on the permitted number of occasions, shall be on Mondays to Saturdays from 6pm to 11pm.
 - (ii) The maximum number of persons permitted to be admitted to the premises, whilst in use for the purposes of this licence, shall be 100.
 - (iii) 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, electrical or other device, at any time whilst the premises are in use for the purposes of this Licence.

2 Justices Licence.

- 2.1 The Fox and Hounds public house has the benefit of a full Justices On Licence in force which permits the sale of alcohol between 11am and 11pm daily and Sundays 12 noon to 10.30pm.
- 2.2 This licence allows the use of television, radio, recorded music or a maximum of two live entertainers, during the usual licensing hours, without the need of a public entertainment licence.

3 Representations and Consultations

- 3.1 A Notice of Intention to apply for this Licence was posted on the premises on 1 June this year for 28 consecutive days (and remained in position until 21 July) where it could be read from a public place. Eight letters have been received making representations concerning this application.
- 3.2 One letter is from a resident of Upper Crabbick Lane, Mr Honour, who states his concerns about these premises which include noise, failure to keep the windows shut, car parking other than the public house car park and danger of children running into the road. (Appendix 1A). Another letter from residents of Upper Crabbick Lane, Mr Rosser and Ms Flatt, alleges non compliance with a condition of the licence which requires windows and doors to be kept shut whilst in use for public entertainment. They also have concerns about music levels and the use of the car park for purposes other than car parking which causes obstruction to the roads nearby including blocking driveways. (Appendix 1B).
- 3.3 Six letters are identical but signed by individuals. Two are from nearby residents but four are from addresses not in the vicinity of this public house. This letter expresses concerns that the public house does not have sufficient parking and extra entertainment will create a hazard due to persons parking on the nearby roads. (Appendices 1C, 1D, 1E, 1F, 1G and 1H.)
- 3.4 Denmead Parish Council has been consulted.
- 3.5 The Ward Members for Denmead have been notified of this application. Councillors Read and Stallard have responded. Councillor Read agrees that parking is a major problem in the area of the Fox and Hounds. Cllr Stallard has noted that the car park is sometimes full at weekends but not during the week but although regularly passing the premises she cannot recall hearing excessive noise.
- 3.6 The Police at Waterlooville have been consulted. They have no incidents recorded relating to these premises during the past year and have no comments to make concerning this application. There are no recorded incidents concerning parking at these premises.
- 3.7 The Director of Health and Housing has been consulted and made aware of the letters of representation. There have been no complaints concerning noise or other problems recorded regarding these premises during the past year. It is recommended that providing the licence is renewed in its present terms and conditions, including the restriction of no more than ten occasions in a year, this should be sufficient to prevent any nuisance. This would include the condition requiring no musical entertainment to be permitted outside.

4 Other Information

- 4.1 There is no application to vary the terms of the licence in force for these premises which limits the number of occasions when the premises may be used for entertainment to no more than ten occasions in any one year. This was increased from six occasions on renewal of the licence in June 2002.
- 4.2 As these premises have the benefit of a full on licence entertainment may be provided in the form of television, radio, recorded music or a maximum of two live entertainers between 11am and 11pm daily and 12 noon to 10.30pm on Sundays.
- 4.3 The Crime and Disorder Act 1998 sets out that it shall be the duty of a local authority 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 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 think fit.

5 Issues for Consideration.

- 5.1 **Is the applicant a suitable person to whom a licence may be granted?** It is considered that he is.
- 5.2 **Are the premises suitable for licensing for public entertainment, considering public safety, noise, proximity to residential property and other relevant issues?** It is considered that, providing there is compliance with the "Additional Conditions", including the restriction of use of this Licence on no more than ten occasions in a year, the premises are suitable. The conditions for public entertainment would not apply to the day to day use as a public house.
- 5.3 **Are the hours being sought acceptable or should alternative hours be specified?** Given the fact that the application is for a public house within usual licensing hours on no more than ten occasions in any one year, the hours would appear to be acceptable.
- 5.4 **If granted should the Licence be renewed for the maximum time of one year or for a shorter period?** It is considered that the Licence should be granted for one year.
- 5.5 **If granted would this Licence have any effect on Crime and Disorder in the area?** It is considered that the entertainment proposed would not affect crime and disorder in the area.
- 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), and 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, or should it only be granted subject to further conditions?** Members may wish to consider whether any further conditions, other than those set out in the Recommendation, which they may wish to be imposed to prevent any nuisance to residents.

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:

1. Application for a Public Entertainment Licence.
- 2 Appendices 1, 3 and 4.

APPENDICES:

- 1A – 1H Letters making Representations (8).
 - 2 Map showing the location of The Fox and Hounds, School Lane, Denmead.
 - 3
- LR 85