

LICENSING AND REGULATION COMMITTEE

3 DECEMBER 2003

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE IN
RESPECT OF THE CRICKETERS ARMS, JACKLYNS LANE, ALRESFORD.

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Fred Masters Tel No: 01962 848443

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report is to consider an application by Richard John Gallear and Malcolm David Neale Shutte for the grant of a public entertainment licence in force in respect of The Cricketers Arms, Jacklyns Lane, Alresford. The application is for entertainment to be permitted between 8pm and 12 midnight on Thursdays, Fridays and Saturdays, although the applicants have indicated that they would not seek to use the premises for the purposes of a public entertainment on more than six occasions in any one year.

A Notice was posted outside the premises for 28 consecutive days from 13 October 2003. After 5 November 2003 a letter was also circulated by the applicants to nearby residents, setting out the proposals for the use of an entertainment licence at the premises if granted. Seven (7) letters making representations have been received from nearby residents making representations concerning this application. The residents have concerns about potential noise nuisance both from the premises and the garden, and by persons leaving the premises and the gravel car park late at night.

The Director of Health and Housing has been consulted and has no concerns should this licence be granted, provided the licence includes conditions restricting the use to no more than six occasions in a year, with the doors and windows being kept shut.

The Police have been consulted and do not object to the grant of this licence if restricted to no more than six occasions in a year.

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 and function room of the Cricketers Arms Public House, may be used for the purposes of this licence during the following times –

Thursdays, Fridays and Saturdays inclusive from 8.00pm to 12.00 midnight
 - (ii) The premises may only be used for the purposes of this licence on not more than six occasions during the period of one year that the Licence is in force.
 - (iii) The City Secretary and Solicitor shall be notified at least seven days in advance of the dates that it shall be intended to use the premises for the purposes of this licence.
 - (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 be maintained open by an electrical, mechanical or other device whilst the premises are in use for the purposes of this Licence.
 - (v) The maximum number of persons permitted to be on the premises whilst in use for the purposes of this licence shall not exceed 150 persons in the whole premises.
 - (vi) 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 licensees 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 licensees be reminded that only the inside bars of the Cricketers Arms are licensed for the purposes of public entertainment and no public entertainment may take place in the garden.
- 4 That the licensees be reminded of the need to make a proper application to the Council should any variation of this Licence or its conditions be sought.

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DETAIL:

1 Application

- 1.1 This application is for the grant of a public entertainment in respect of the Cricketers Arms public house, Jacklyns Lane, Alresford by Richard John Gallear and Mr Malcolm David Neale Shutte. The Cricketers Arms has been a public house for many years but it has never previously had the benefit of a public entertainment licence. The application for public entertainment relates only to the inside bars and function room of the premises and does not include the garden or car park.
- 1.2 Mr Gallear has been in the licensing trade since 1984 and has been the licensee of the Cricketers Arms since March 1996. He is a fellow of the British Institute of Innkeeping. Mr Shutte is the joint holder of the Justices' Licence and is the owner of the lease for these premises. Mr Gallear is the resident licensee and is generally responsible for the day to day management of the premises. Neither Mr Gallear nor Mr Shutte have previously held a public entertainment licence. There is nothing known to the detriment of either applicant and they would appear to be suitable persons to hold a public entertainment licence.
- 1.3 The application is for a public entertainment licence to be granted to be in force from 8pm to 12 midnight on Thursdays, Fridays and Saturdays. However the licensees have indicated that it is not intended to have live music on more than six occasions in one year. The licensees have now circulated this further information of their intentions to some of the residents living nearby (Appendix 1A). One resident has responded direct to the applicants to this circulation (Appendix 1B).

2 Representations

- 2.1 A Notice is required to be posted, visible from outside the premises, for a minimum period of twenty-eight days. A Notice was posted at the premises from 13 October 2003.
- 2.2 Seven letters making representations have been received from residents living nearby in Spring Way, Fair View Paddock Way. The letters from residents include their concerns about the potential for noise nuisance both from the premises and caused by persons leaving the premises from the car park, particularly late at night. (Appendices 2A – 2F). One letter is from a resident, M D Brook of Fair View, who has sent a second letter withdrawing any objection to the grant of this licence providing the live music is limited to no more than six occasions in one year. (Appendices 2D(i) and 2D(ii)).

3 Consultations.

- 3.1 Alresford Police have been consulted. Sergeant Curson reports that the police have no grounds for objecting to the grant of this licence. The police would support an agreed condition to restrict the use of these premises for public entertainment to no more than six occasions in a year.

- 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 150 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 number of occasions when the premises may be used for the purposes of public entertainment is restricted to no more than six occasions in one year with the windows and doors being kept shut.
- 3.4 The Ward Members of this Council have been notified of this application.
- 3.5 New Alresford Town Council have been consulted.

4 Other Information

- 4.1 The Cricketers Arms, Jacklyns Lane, Alresford is a public house where a full on licence is in force but there has not previously been a public entertainment licence 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 be the holders of a public entertainment licence?** It is considered that they are suitable. Mr Gallear has held the Justices' on licence for these premises for the past eight years and has been in the licensing trade since 1984. He is a fellow of the British Institute of Innkeeping. Mr Shutte is the joint holder of the Justices' on licence and is the owner of the lease for these premises. Mr Gallear is the resident licensee and is generally responsible for the day to day management of the premises. Neither Mr Gallear nor Mr Shutte have previously held a public entertainment licence.
- 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 the use of the licence is restricted to no more than six occasions in a year and there is compliance with the "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 garden and car park are not to be included.
- 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 providing entertainment is

restricted to no more than six occasions in a year with prior notification to the Council.

- 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 providing there is a restriction on the number of occasions these premises are used for the purposes of public entertainment. The police 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 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?** 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 Cricketers Arms public house, Jacklyns Lane, Alresford, letter circulated to residents by applicants in Appendix 1 and letters of representation in Appendix 2.

APPENDICES:

- 1A Letter circulated by applicants to nearby residents.
- 1B Letter from resident responding to applicants circulation (1A).
- 2A – 2F Letters of representation from residents (6).
- 3 Plan of the Cricketers Arms public house, Alresford.
- 4 Map showing the location of The Cricketers Arms, Jacklyns Lane, Alresford.