

LICENSING AND REGULATION COMMITTEE

11 January 2005

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE FOR THE
KINGS HEAD PUBLIC HOUSE, HURSLEY

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Chris Bicknell / John Myall Tel No: 01962 848443

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report is to consider an application by Mr. David Twynham for the grant of a Public Entertainment Licence in respect of the Kings Head public house in Hursley. There has not previously been an entertainment licence in force for these premises and the application is for public entertainment to be permitted for Thursdays from 1830hrs to 2330hrs, and Fridays and Saturdays between 1900 hrs and midnight, for one occasion per month only.

Five representations have been received. Most objectors are concerned that the application will lead to an intrusion in what they consider to be a quiet and peaceful village by noise from loud music and the resulting parking problems.

Hursley Parish Council supports the applicant's efforts to revive the business but would like events to take place once or twice a month and the noise to be regulated.

The Director of Health and Housing has recommended that the occasions on which entertainment is provided should be limited. It is also recommended that the band is located away from the sash windows or doors that are close to the nearest residential properties in Collins Lane and Port Lane.

Hampshire Fire and Rescue have inspected the premises and recommend that certain works are carried out before any licence is granted.

The Police have been consulted and have no objection to the application.

RECOMMENDATIONS:

- 1 That, providing the work required by Hampshire Fire and Rescue is completed to the satisfaction of the City Secretary and Solicitor, the Public Entertainment Licence for the premises of the Kings Head, Hursley be granted to Mr. David Twynham.
- 2 That the licence be granted subject to compliance with the Standard Conditions and Regulations of Winchester City Council and to include the following Additional Conditions:-
 - (i) The premises may be used for the purposes of this licence on ONE occasion monthly on either a Thursday, Friday or Saturday evening and the City Secretary and Solicitor shall be notified of any occasion when the premises will be used under this licence at least 7 days before the event. The permitted hours during which entertainment may be provided on such occasions shall be from 18.30hrs to 23.30 hrs in the case of Thursdays, and 19.00hrs to midnight in the case of Fridays and Saturdays.
 - (ii) 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
 - (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 an electrical, mechanical or other device whilst the premises are in use for the purposes of this licence
3. That the Licensee be reminded of the need to take all steps to minimise nuisance to residents caused by persons leaving the premises and using the Kings Head car park

LICENSING AND REGULATION COMMITTEE

11 January 2005

APPLICATION FOR THE GRANT OF A PUBLIC ENTERTAINMENT LICENCE FOR THE KINGS HEAD PUBLIC HOUSE, HURSLEY

REPORT OF CITY SECRETARY AND SOLICITOR

DETAIL:

1 Application

- 1.1 This report is to consider an application by Mr. David Twynham for the grant of a public entertainment licence in respect of the Kings Head public house in Hursley. There has not previously been an entertainment licence in force for these premises.
- 1.2 The application is for public entertainment to be permitted on one occasion per month only on:-
- Thursdays from 18.30 hrs to 23.30 hrs
- Friday and Saturday from 1900 hrs to midnight.
- 1.3 The premises has been a public house for many years and is situated adjacent to the main road in Hursley. There are dwellings nearby, to the side and rear of the premises, but none to the front.

2 Representations

- 2.1 A notice was posted at the premises for 28 consecutive days from 28 August 2004.
- 2.2 Five letters have been received from residents (some on behalf of others) making representations. Most objectors are concerned that this will lead to an intrusion in what they consider to be a quiet and peaceful village by noise from loud music and the resulting parking problems. (Appendices 1A – 1E)
- 2.3 A letter has also been received from Hursley Parish Council which supports the applicant's efforts to revive the business but would like events to take place once or twice a month only and the noise to be regulated (Appendix 2)

3 Consultations

- 3.1 Winchester Police have been consulted and have no representations to make regarding the application.
- 3.2 Hampshire Fire and Rescue have inspected the premises and recommend that certain minor works are carried out before any licence is granted (Appendix 3).
- 3.3 The Director of Health and Housing has been consulted and has no objections but has made suggestions regarding the number of occasions the licence would be used and the location of the bands (Appendix 4).

4 Other Information

- 4.1 The Kings Head is a public house where a full on licence is in force. Even 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 three or more persons and dancing would not be permitted without a Public Entertainment Licence (PEL) being in force.
- 4.2 The grant of a PEL would enable the licensee to apply to the Justices for a Special Order of Exemption, allowing extended hours, whether or not entertainment was provided.
- 4.3 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.
- 4.4 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.

Issues for Consideration

- 5.1 **Has the applicant shown himself to be a suitable person to manage premises where a Public Entertainment Licence is in force?** There are no adverse reports concerning the licensee.
- 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" set out in the Recommendations, the premises are suitable for entertainment, subject to a maximum capacity of 150. Only the inside bars of the premises will be licensed for the purposes of public entertainment.
- 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 ends promptly. The premises would only be used for the purpose of public entertainment on one occasion a month.
- 5.4 **If granted would this Licence have any effect on Crime and Disorder in the area?** The Police have provided no evidence that this licence may have an effect on Crime and Disorder in the area and have not objected 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. It is considered that as the renewal of this licence would have little effect to change the use of these premises, any interference with the residents' rights is proportionate and the renewal of the licence would not be contrary to the provisions of the Human Rights Act 1998.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

6.1 The licensing function affects the key priorities of economic prosperity and cultural and leisure opportunities.

7 RESOURCE IMPLICATIONS:

7.1 None.

BACKGROUND DOCUMENTS:

Application for the grant of a Public Entertainment Licence in respect of the Kings Head, Hursley, and representations received.

APPENDICES:

1A–1E Letters of representations from residents (5)

2 Letter from Hursley Parish Council

3 Report of Hampshire Fire and Rescue Service

4 Report of the Director of Health and Housing

5 Map of premises and surrounding area