

RUNNYMEDE BOROUGH COUNCIL

LICENSING ACT 2003

LICENSING SUB-COMMITTEE

HEARING DECISION NOTICE

Applicant: A K Inns
Premises: The Foresters Arms, 1 North Street, Egham, Surrey, TW20 9RP
Sub-Committee: Councillors Mrs Gill, Ms Haylor and Knight
Hearing Date: 3 January 2007

This was an application for a variation of the existing premises licence under the terms of Section 34 of the Licensing Act 2003.

The variation applied for was:

1. To extend the area of the premises following renovations; and
2. To extend the hours for the provision of the supply of alcohol, late night refreshment and regulated entertainment beyond those currently approved.

The applicant was represented by Mr Max Angliss and Mr Woolsgrove, the owner and manager respectively of the premises. Peter Burke of Runnymede Borough Council's Environmental Health attended on behalf of the responsible Authority and spoke. Thirty nine letters of representation had been received and 11 persons having made representations attended, the majority of whom spoke. PC Richard Medhurst also attended on behalf of the Surrey Police as the Licensing Officer.

The Sub-Committee heard from Mr Angliss and Mr Woolsgrove that the Foresters Arms is a small public house situated in North Street, Egham, which is a largely residential area. The public house is on a corner plot and although there is a parking area to the rear parking is a problem for the residents generally. Mr Angliss advised the Committee of the applicant's plans for the public house, and in particular, the renovations which have recently been carried out to remove two bedrooms and to replace them and an existing function room with restaurant facilities. Mr Angliss was at pains to point out that his intention was to increase the food business of the public house. He made clear that he was not interested in a night club type operation and was not particularly interested in increasing the "wet sales" as there was very little profit in the selling of extra beer, which he had to buy through the brewery. He also addressed a number of other issues such as the car park area to the rear, which was owned by the brewery but in respect of which he was in negotiations to upgrade. He explained that the restaurant would have a seating of approximately 36 - 40 and that the bar area could hold comfortably another 30 or so.

At the outset, Mr Angliss advised the Sub-Committee that it was not the applicant's intention to pursue the application for variation in respect of recorded music or live music beyond the existing hours. The Sub-Committee heard that there was no intention of keeping the premises open to the extent of the hours applied for on every occasion and in any event, of the 30 occasions already permitted under the existing licence for late opening only two had been utilised. The Sub-Committee heard from both Mr Angliss and Mr Woolsgrove of the measures the public house had taken to control noise breakout and were at pains to encourage any residents who were suffering nuisance to come to them.

A number of residents raised concerns arising from nuisance suffered by them from patrons leaving the public house. There were complaints of urinating and vomiting in gardens nearby and broken glass, bottles and cans. Both Mr Angliss and Mr Woolsgrove disputed that the glass could have come from the public house and particularly disputed that tins or cans would have come from the public house as cans were not sold and only very few bottles were sold. Residents contended, however, that the glass was of the pint glass and wine glass variety and they had seen patrons leaving the public house with glasses in hand. Of concern also was the conduct of patrons in the parking area and in particular young males exiting the public house exit and driving away at speed. Mr Woolsgrove did not dispute that on occasion this had been a problem but put it down to car thieves, a problem which other premises in the area had experienced also. PC Medhurst confirmed that there had been two reports of car thief activity from the premises and one other complaint of criminal damage, but no complaints in respect of urination, vomiting, public disorder or nuisance generally. The Sub-Committee heard from a number of the residents that they had tried to approach the management on occasion but had found it intimidating. One resident in particular had suffered a broken fence on at least three occasions. When viewing photographs of the entrance to the public house and the car parking area to the rear and the proximity of her fence and the narrowness of the access it could be seen or at least understood how fence panels could be damaged. Another resident complained that fence panels further down the access had been damaged and her husband had been trying to get the public house to fix them for some time.

Mr Angliss explained that there were difficulties in respect of the area of the car park to the rear of the premises because it was not in his Lease and this was something he was talking to the brewery about.

Another resident complained that the side door immediately adjacent to her property was continuously left propped open allowing the escape of noise. Another resident complained that, living almost directly opposite the public house, he had suffered over the last number of years from noise nuisance. He had kept a record and he was able to tell the Sub-Committee the number of occasions in each of the years, although in the 2006 year the number had declined to about 10 - 12. Noise suffered by him was particularly acute in his front rooms, two of which were bedrooms. He said the noise was such that it would prevent sleep or comfortable use of those rooms. The noise was of a loud and bass beat type. A number of other residents complained of the same sort of noise, as did the occupier of the property immediately adjacent to the access to the rear of the premises. There were also complaints of the use of foul language by patrons and nuisance from loud mobile phone use.

Mr Angliss had said that he had not had live music in the premises for some 18 months but had perhaps one or two karaoke sessions.

The Sub-Committee was impressed by the veracity of the witnesses living close to the public house who complained of nuisance suffered by them. It did not seem to the Members that they were people who were particularly sensitive to noise and accepted that they had tried to complain. Equally, the Sub-Committee was impressed by Mr Angliss' plans for a restaurant and had full regard to his assurances that his intention was to build the restaurant trade. In that respect in a letter circulated to residents by him just before Christmas 2006 the Sub-Committee noted that the times of operation for the restaurant was significantly less than the hours applied for in the variation. The Sub-Committee was also mindful of the fact that the applicant had the benefit of 30 occasions in the course of a 12 month period when on the giving of 5 days notice to the Police a late event could be held, but that only 2 such events had been applied for.

The Sub-Committee drew the conclusion that the complained of noise, if not live or recorded, must have emanated from background or incidental noise, played at a significant volume.

The Sub-Committee was mindful, in respect of complaints of nuisance arising away from the public house, and, generally, that the applicant could only have a limited control over persons away from its premises and in any event the complained of activities were not necessarily as

a consequence of the patrons of the public house and could be explained by the passing of students and others.

The Sub-Committee was satisfied that there was the potential for public nuisance from patrons of the public house when leaving and from the provision of the regulated entertainment, notwithstanding, the measures such as soundproof curtains, baffle boards and volume controls introduced by the management, and efforts by the management to ensure patrons behaved responsibly when in the outside areas and leaving. The Sub-Committee accepted that such nuisance and inconvenience to neighbouring residents would be exacerbated by allowing the increase in hours applied for.

The decision of the Sub-Committee having considered the application and representations from interested parties and having regard to the provisions of the Licensing Act 2003, and the applicant and Guidance issued pursuant to it, was as follows:

1. The application in so far as it related to the extension of the premises area was approved.
2. The application for variation of the hours as sought at hearing was refused.
3. The following additional conditions were imposed in accordance with Section 35(4) of the Licensing Act 2003, which allow for the modification or addition of new conditions of the licence.
 - 3.1 Doors and windows to be kept closed at all times when music or other regulated entertainment is being provided inclusive of amplified background incidental music and TV entertainments.
 - 3.2 Sound curtains to be drawn at 10.30pm when music is being played.
 - 3.3 Baffle boards, as indicated by Mr Angliss, to be fitted as appropriate.
 - 3.4 Volume controls for music to be maintained, and appropriate signage at the exits to the premises to be agreed with the Senior Licensing Officer requesting patrons leaving to be considerate of the neighbouring residents.
 - 3.5 A chain to be placed across the "pinch point" of the access from the driveway to the rear car park to be locked from 11.00pm and appropriate signage to be placed requesting patrons using the car park at other times to do so with due consideration for the interests of the adjoining residents.

Recommendations:

The Sub-Committee did not feel it appropriate to make a condition as such but does recommend to the applicant that appropriate measures are taken to have regard to neighbouring residents' complaints as to the foul language of users of the outdoor areas and attempt to ensure that language is moderated and to request persons resorting to the use of mobile phones in the immediate vicinity of the public house to do so with due consideration for the neighbouring residents.

The reasons for the imposition of the conditions is the prevention of public nuisance and to ensure an orderly and graduated departure of patrons.

Appeals

If the applicant or any person having made a relevant representation wishes to appeal against this decision, the appeal must be made to the North West Surrey Magistrates Court at Woking within 21 days of receipt of this Notice.

Dated: 15 January 2007