

## **Aylesbury Vale District Council**

### **DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE FOLLOWING A HEARING ON 21 SEPTEMBER 2010 AT THE COUNCIL'S GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY**

#### **Application by Russell Brown and Eugenio Mendola to vary the premises licence for the Crown Inn, Main Street, Tingewick, Buckinghamshire.**

#### **Members of the Sub-Committee**

Cllr Brian Roberts (Chairman)  
Cllr Judy Brandis  
Cllr Graham Webster

#### **Declarations of interest**

None.

#### **The application**

The Sub-Committee has given careful consideration to the application before it, namely, to vary the premises licence for the Crown Inn, Main Street, Tingewick, Buckinghamshire.

In general terms, the application seeks permission to:

- extend existing finish times for alcohol (for consumption on and off the premises) and regulated entertainment (live music and recorded music (indoors only) from Sunday to Thursday to 00.00 hours and on Friday and Saturday to 01.00 hours;
- keep the premises open to the public for an additional 30 minutes;
- extend the finish times on Christmas eve, Boxing day and New Year's day by an additional hour unless these days fall on a Friday or Saturday and to permit licensable activities to run from the start time on New Year's eve until the finish time on New Year's day; and
- remove existing conditions inconsistent with the proposed finish times and those conditions carried forward from the old licensing regime relating to permitting children onto the premises in line with the requirements of the Licensing Act 2003.

Both applicants attended the hearing and were represented by Paula Mareri. Joanna Venables, the Commercial Manager of Charles Wells Pub Company, who are the landlord of the premises, also supported the applicants.

The application received representations from Environmental Health, acting in their capacity as a responsible authority and a number of representations from residents acting in their capacity as interested parties. One of these representations was withdrawn before the hearing.

Environmental Health's representation referred to the fact that the premises is located in very close proximity to a number of residential dwelling and that there is a history of complaints alleging noise disturbance from the premises.

As a result of these concerns, the applicants agreed the following conditions with Environmental Health and thereby amended their application accordingly:

1. After 2300 hours on any day the outside areas (both back and front of the pub and the smoking shelter) shall be used as designated smoking places only and shall not be used for the sale and/or consumption of food or drinks (including alcoholic and non-alcoholic drinks).
2. All windows and doors must remain closed during the performance of any live music.

Environmental Health were represented by Mr Neil Green at the hearing and he confirmed that the application raised no other issues as far as Environmental Health were concerned.

As for the representations received from the interested parties, Mr and Mrs Edwards stated in their representation, amongst other things, that the applicants have both displayed a very responsible attitude to their neighbours and were professional.

Mr and Mrs Bennett and Mrs Stutchbury submitted a joint representation in support of the application and described the applicants as "good landlords" and that the premises was a pleasure to visit.

Mr and Mrs Goldsworthy submitted separate representations strongly objecting to the application. Amongst other things, they complained about noise nuisance and disturbance arising from the break-out of noise from inside the premises and the noise generated by customers outside of the premises. They also complained about disorderly conduct and express concern about allowing children to play in a pub car park.

Whilst acknowledging that since the making of this application the noise levels had decreased dramatically, they feared that this would only be a temporary state of affairs.

Mr and Mrs Pratt also submitted separate representations complaining about noise nuisance.

Mr Pratt was the only resident who actually attended the hearing and took part in the discussion led by us. Mr and Mrs Goldsworthy had sent their apologies prior to the hearing and explained that unfortunately they were unable to attend. They also confirmed that they did not think that the conditions the applicants had agreed with Environmental Health resolved their concerns. Mrs Stutchbury had also confirmed before the hearing that she could not attend but that she still stood by her representation.

Although not all of the interested parties were in attendance we did not consider it to be in the public interest to adjourn the hearing but we did nonetheless take all the representations into account.

## **The decision**

We have listened to all the representations and have read all the material.

We have had regard to the statutory guidance issued under section 182 of the Licensing Act 2003, and the Council's own licensing policy.

We confirm that in making our decision we have sought to promote the licensing objectives.

Under the Licensing Act, we cannot modify the conditions or reject the whole or part of the application merely because of unsubstantiated concerns or because we consider it desirable to do so. Any regulation we impose must actually be necessary in order to promote the licensing objectives and must be supported by real evidence that it was required in the circumstances of the case.

We are satisfied that in all the circumstances, the impact of the variation of the premises licence on the licensing objectives does not necessitate a rejection of the amended application. The variation application is granted with the additional two conditions as agreed by the applicants with Environmental Health before the hearing.

As acknowledged by the applicants' representative, the scope of the licence is for the building itself, and does not cover the grounds of the premises for licensable activities.

The following factors in particular weighed heavily with us.

Mr Pratt acknowledged that the applicants are not responsible for the nuisance he has suffered in the past because the incidents pre-date the start of their tenancy. To that extent the majority of his complaints are purely historical and the applicants have introduced a number of significant changes to address the issues which have caused problems in the past.

Mr Pratt informed us that he is concerned about the future and that is understandable given the problems he has encountered in the past. However, we cannot refuse applications based purely on what might happen in the future, especially if the problems are not currently being experienced.

We note that Mr Pratt can exercise his right to ask the Council to review the licence anytime in the future should problems actually occur and indeed this is something that other residents and Environmental Health can do too.

We have also taken into account the investment the applicants have made since they took over the tenancy of the premises both in terms of money and engaging with the community. Tangible, positive steps have been taken and that is to the applicants' credit.

In particular, we are pleased to note that the applicants have been engaging positively with the local residents and have assured us that they will continue to do so in order to address any issues that might arise in the future.

We think it is particularly important that the dialogue continues when events are held in the grounds of the premises such as wedding parties etc. which are more likely to have an impact on local residents.

We would also strongly encourage the applicants to continue their policy of closing the car park at 11.00pm every evening.

We note that some of the complaints we received related to the use of the car park and surrounding area by children and the applicants have already taken steps to address these concerns by asking parents to supervise their children more closely and to stop them from playing ball games. We recommend that notices are put up at the premises to notify all existing and new customers that this is what the premises expects.

### **Conditions**

Having regard to the representations made, we are satisfied that no further conditions are necessary in order to promote the licensing objectives.

The mandatory conditions and the conditions volunteered by the applicant (i.e. the details of the amended operating schedule) have not been reproduced in this decision notice but will be set out in the licence document itself.

### **The effective date of this decision**

This decision will take effect when the licence (or a certified copy) is kept at the premises and a summary of that licence (or a certified copy) is displayed at the premises. These documents will be issued by Licensing Services as soon as possible.

### **Right of Appeal**

The interested parties have a right of appeal to Aylesbury Magistrates' Court against this decision. They can appeal against the grant of the application or on the grounds that different or additional conditions should have been imposed.

If you wish to appeal you must notify Aylesbury Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

11 October 2010