

Aylesbury Vale District Council

DECISION OF THE LICENSING ACT SUB-COMMITTEE FOLLOWING A HEARING ON 12 JULY 2011 HELD AT THE COUNCIL'S GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY

Application by STA Sports (Liscombe Ltd for a new premises licence for Energie Fitness Club, Liscombe Park, Soulbury, Leighton Buzzard, LU7 0SL

Members of the Sub-Committee

Cllr Judy Brandis (Chairman)

Cllr Janet Blake

Cllr Freda Roberts

The meeting was opened at 10:05, but the Applicant was not in attendance. The Licensing Manager had attempted to contact the Applicant via his mobile phone number and via his office, though with no success. The sub-committee decided it would not be in the public interest to hear the application without the Applicant in attendance as there were a number of issues which he would need questioning on.

There were two interested parties in attendance, Ian Woodlaw representing Mr Viegas and Mrs Tobin. Mrs Tobin confirmed she could attend an adjourned hearing at 2pm the same day, though Mr Woodlaw was unable to. He agreed that Mrs Tobin could represent him and it was confirmed that all the written representations would be considered.

The sub-committee adjourned the meeting until 2pm on 12 July 2011.

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The application

The Sub-Committee has given careful consideration to the application before it, namely, to grant a new premises licence for Energie Fitness Club, Liscombe Park, Soulbury.

In general terms, the application seeks permission for the provision of regulated entertainment (i.e. the performance of live music; the playing of recorded music and the provision of facilities for dancing); for the supply of alcohol and the provision of late night refreshment. The Premises comprises an internal café bar with adjacent terrace area and Liscombe Field which is adjacent to the club.

The application received representations from Environmental Health and 7 representations from residents living in the vicinity of the premises.

The applicants, STASports (Liscombe) Ltd were represented by Nick Sheehan.

Ms Lindsay Hone represented Environmental Health.

Mrs Tobin attended as an interested parties and spoke. No other interested parties attended and 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 and we nonetheless considered their written representations.

Ms Hone from Environmental Health outlined that there had been no previous history of complaints regarding the Premises, though there had been complaints regarding neighbouring commercial units therefore she was aware there was some noise sensitive premises. Therefore she was concerned with the potential noise break out. She stated that she had been in contact with the Applicants who had accepted her proposed conditions concerning noise monitoring and signage.

Mrs Tobin presented to the Sub-Committee her objection to the application which mainly surrounded the issue of noise nuisance. Her property, 6 Rock Lane Farm was very close to the premises and the terrace was only 20 paces from her bedroom window. Her cottage is of single brick construction with single glazing, therefore sound penetrates it very easily. After business hours the site is very still and silent. She acknowledged that they have had no problems with the functions held by the Premises so far. Her concerns were mainly around bass beat music and the use of the terrace. She was surprised that there was no discussion with the residents before the application was submitted. She handed up, with the agreement of the Applicant, some aerial photographs which show the proximity of her house to the Premises.

On the grounds of public safety she said the application only considered inside of the gym area, it did not consider that there is no public lighting in and around the site and that entry is by a single lane only. She had no confidence in the effectiveness of the signs as suggested by Environmental Health. Further, the condition regarding noise monitoring – what is defined as “excessive”, what is excessive to one person may not be to another. Her view was that the application was flawed in that there was not enough detail, no discussion and no real steps to prevent crime and disorder and public nuisance occurring.

She stated that her, and other residents, did not wish to see the gym close and recognised that it needs to become financially viable, but there had been no discussion to allow for a compromised application to be agreed upon.

The sub-committee confirmed the location of the terrace on the aerial maps with Mrs Tobin and Mr Sheehan agreed.

Mr Sheehan presented his application and stated that first and foremost they did not want to upset the residents. He is not wishing to turn the premises into a pub, but to diversify his business. The average age of his members is 46 and 75% are classed as prosperous therefore he does not anticipate there being much anti-social behaviour. He is simply trying to re-establish the old premises licences that the premises had. He said he was happy to discuss any possible amendments. He does not envisage ever having an 18th or 21st birthday party. The terrace will not have any live or amplified music on it.

The club currently operates Monday to Friday 6:00am to 10:00pm and Saturday and Sunday 8am to 7pm; 90% of what they anticipate running will be within those hours. He does not believe they will really use the bar Monday – Thursday except for possible local sports groups. They had recently held a presentation evening for a local netball group; the terrace was closed at 9:00pm and the bar at 10:30pm, it will not be a late night premises. He stated that the terrace, practically can only be really used for 3 months a year due to temperature and it being dark.

The main motivation for the licence is to enable champagne spa packages to be offered and for members to have a glass of wine with food.

He does not want floodlights and his staff are familiar with challenge 21/ 18, bar watch schemes. He is building up a relationship with a local taxi company.

All of his members are over 18 apart from the hiring of the swimming pool twice a week to water babies.

The increase in traffic flow he believes will be negligible. Currently there are anything between 400 and 500 traffic movements a day due to other businesses on the site.

He has 1100 members and not currently profitable, he is just trying to diversify to make the business profitable.

It soon became apparent to the Sub-Committee that it would be useful for the Applicant and Interested Party to have an informal discussion regarding the application to see if they could resolve some issues, therefore the sub-committee adjourned.

Upon the hearing reconvening, Peter Seal, on behalf of Mr Sheehan offered the following as a revised application:

- Liscombe Field to removed totally from the application
- The hours for live music, recorded music and dance to be in line with the supply of alcohol; therefore:
 - Monday 11:00 – 22:00
 - Tuesday 11:00 – 22:00
 - Wednesday 11:00 – 22:00
 - Thursday 11:00 – 23:00
 - Friday 11:00 – 23:00
 - Saturday 11:00 – 23:00
 - Sunday 11:00 – 21:00
- There to be no amplification music on the terrace at any time.

- There is to be no drinks taken onto the terrace after 9pm except for one night per calendar month when drinks can be taken onto the terrace until the terminal hour
- The doors to the terrace to be closed after 9pm during regulated entertainment.
- The application for late night refreshment is withdrawn.
- The applicant will direct people who use the terrace to smoke or for other reason after 9pm to use the part which overlooks the field rather than Mrs Tobin's property.

Environmental Health confirmed that they no longer sought the condition for the patrols of the boundary of the premises following the revised application.

The decision

We have listened to all the representations from Environmental Health, and Mrs Tobin, the interested party and the Applicant. We have also read all of the written representations and other material supplied.

We acknowledge that those residents who live in the vicinity of the Premises feel that they could be adversely affected by the grant of the licence and have therefore objected on a number of grounds and have expressed concerns.

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.

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 have considered carefully the concerns expressed by, and on behalf of, the local residents. During the discussion Mrs Tobin majored on the issue of noise nuisance, particularly from the terrace.

Following the short adjournment, the sub-committee were pleased to have been presented with a revised application which Mrs Tobin agreed to. The sub-committee note that Mrs Tobin still had some concern regarding the gathering of smokers on the terraced area.

We are satisfied that in all the circumstances, the impact of the grant of a premises licence on the licensing objectives does not necessitate a rejection of the application. The amended application is granted as per the below hours confirmed with the Applicant and following conditions:

- Sale of Alcohol and live entertainment, recorded music and dance:
 - Monday 11:00 – 22:00
 - Tuesday 11:00 – 22:00
 - Wednesday 11:00 – 22:00
 - Thursday 11:00 – 23:00
 - Friday 11:00 – 23:00
 - Saturday 11:00 – 23:00
 - Sunday 11:00 – 21:00

- There is to be no amplification music on the terrace at any time.
- There are to be no drinks taken onto the terrace after 21:00 except for one night per calendar month when drinks can be taken onto the terrace until the terminal hour. A record of the night to be recorded and available for inspection by the local authority.
- The doors to the terrace to be closed at 21:00 during regulated entertainment.
- Prominent, clear and legible notices to be displayed at all access and egress points to the terrace requesting the public to respect the needs of local residents and to keep noise levels to a minimum and leave the premises and the area quietly.

The sub-committee strongly encourage the applicant to direct users of the terrace after 21:00 to the area of the terrace overlooking the field, rather than 6 Rock Lane Farm, as he offered to do so.

Right of Appeal

The interested parties have a right of appeal to Aylesbury Magistrates' Court against this decision. The applicant can appeal against the refusal of part of the application and the other parties can appeal against the grant of the licence 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.

13 July 2011