

Aylesbury Vale District Council

DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE FOLLOWING A HEARING ON 29 MARCH 2011 AT THE COUNCIL'S GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY

Application by Munchies (Fairford Leys) Ltd to vary the premises licence for the Munchies, 9 Hampden Square, Aylesbury, HP19 7HT, Buckinghamshire.

Members of the Sub-Committee

Cllr A Sherwell (Chairman)
Cllr J Blake
Cllr P Cooper

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 Munchies, 9 Hampden Square, Aylesbury,

In general terms, the application seeks permission for the following:

- Sale of alcohol
 - Monday – Thursday 5:00pm – 10:30pm
 - Friday – Saturday 5:00pm – 11:00pm
 - Sunday 5:00pm – 9:30pm

- Hours open to the Premises
 - Monday – Thursday 5:00pm – 10:30pm
 - Friday – Saturday 5:00pm – 11:00pm
 - Sunday 5:00pm – 9:30pm

Mr and Mrs Habib attended the hearing as representatives of Munchies (Fairford Leys) Ltd.

The application received representations from seven residents acting in their capacity as interested parties; there were no representations from responsible authorities.

As a result of the concerns raised by local residents, the applicants, prior to the hearing withdrew the part of the application which requested provision of entertainment and late night refreshment. Mrs Habib responded in writing to all interested parties before the hearing confirming the scope of their application and how they wish to run the premises. It was confirmed that all parties had received this latter. As a result of this David Shutt withdrew his representations before the hearing.

The 6 remaining interested parties had all been in contact with the Licensing Authority. 5 of them confirmed they were unable to attend, but still wished for their representations to be considered. Laura Capstick confirmed that her landlord, Holly Farrow, would represent her at the hearing. Sally-Anne Boosey attended and gave an oral presentation as did Holly Farrow on behalf of Laura Capstick. 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.

The interested parties who spoke stated in their representations, amongst other things, that the main concern was surrounding the hours the Premises would be open to the public, the nature of the business for on and off sales and the rear parking area.

There was quite a lot of discussion surrounding the area behind the Premises. It was clarified that there is a parking space marked out which is believed to be for utilities purposes, therefore for loading and unloading to the premises and if empty, residents can park in it. The parking spot is in such a location to enable the back doors to the premises to be opened.

The applicant, in their presentation, stated they are experienced in running this kind of establishment as they had previously run a 150 seater restaurant. Munchies has 20 seats, if that. The hours originally applied for were to provide flexibility, but they have amended the hours to reflect the hours obtained under their planning permission and following the concern of the residents.

They intend to operate as a café serving hot and cold drinks during the day with snacks from 10:30am – 2:30pm. This would be aimed at mother's and local work people from the industrial estate. The evening would be an Indian restaurant with a take away element. The off sales had been applied for so that a bottle of wine could be sold with the take away food if desired. There will not be a large selection of alcohol on sale at the premises. They will be running a delivery service and the drivers will access the Premises from the front in the same way that customers will. The back door to the Premises is for loading and unloading and emergency access only. They have a ventilation system in place which has been approved by Environmental Health and takes account of the Premises being in a residential setting.

Upon questioning from the Committee and after consideration, the Applicants stated they would be willing to accept a '30 minute drinking up time' restriction Monday to Thursday and 15 minutes on a Friday, Saturday and Sunday.

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; therefore we have granted the amended application subject to below condition and hours.

The hours the Premises will be open to the public are:

Monday – Thursday	5pm – 10:30pm
Friday – Saturday	5pm – 11:00pm
Sunday	5pm – 9:30pm

Sale of Alcohol

Monday – Thursday	5pm – 10:00pm
Friday – Saturday	5pm – 10:45pm
Sunday	5pm – 9:15pm

Conditions

Having regard to the representations made, we have put the following condition on the licence:

1. The drivers used by the Licence holders to deliver take-aways are not to park to the rear of the Premises and shall access the premises from the front only to collect the food.

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.