

Aylesbury Vale District Council

**DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE
FOLLOWING A HEARING ON 31 JANUARY 2012 AT THE COUNCIL'S GATEWAY
OFFICES, GATEHOUSE ROAD, AYLESBURY**

**Application by Mr Andrew Alexander for the grant of a premises licence for Abi
Newsagent & Off Licence, 77 High Street, Aylesbury HP20 1SA**

Members of the Sub-Committee

Cllr Judy Brandis (Chairman)
Cllr Corry Cashman
Cllr Andy Huxley

Declarations of interest

None.

The application

The Sub-Committee has given careful consideration to the application before it, namely, to grant a premises licence for Abi Newsagent & Off Licence, 77 High Street, Aylesbury HP20 1SA. The application seeks permission to sell alcohol for consumption off the premises only from 06.00 hours until 23.00 hours 7 days a weeks. The opening hours of the premises are restricted to these times too.

The applicant, Mr Andrew Alexander, attended the hearing in support of his application and was accompanied by Mr Jayaraman Kamalanth, the proposed designated premises supervisor (DPS), and was represented by Mr Jon Payne Horsey Lightly Fynn Solicitors.

The application did not receive any representations from responsible authorities but did receive 5 representations from interested parties. Aylesbury Retail Against Crime objected to the application because of concerns about an increase in anti-social behaviour in the High Street.

The Aylesbury Town Centre Manager also expressed concerns about anti-social behaviour. It was also stated that this was not the right business for this key entry way into the town centre and would have a detrimental impact on the look and feel of the lower end of the High Street. It was also argued that there was no need for another off licence in the town centre. None of these concerns relate to one or more of the licensing objectives and cannot be taken into account by us.

The Aylesbury Society objected to "another off licence in the town centre as we believe it encourages drinking in public places, loitering, anti-social behaviour and petty crime. We would also point out that these premises are opposite a church and in a primary shopping centre that AVDC is attempting to bring back to life".

Gala Bingo, which is located near the premises, objected to the application because it would encourage people to loiter outside their property; endanger the safety of their customers and more drunk and disorderly people would create a negative impact.

Mr and Mrs Bowden, who own a shop opposite the premises, complained about extra noise, parking problems (which in itself is not a relevant licensing issue because it does not relate to one or more of the licensing objectives) and problems of anti-social behaviour and crime and disorder associated with the availability of cheap alcohol.

Although none 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.

During the course of the hearing, we discussed the permitted hours of other 'off-licences' in the town centre and encouraged the applicant to consider adjusting the hours during which alcohol could be sold from 06.00 hours to 08.00 hours and to bring the terminal hour on Sundays forward to 22.30 hours. The applicant agreed and amended his application accordingly.

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 have also taken into account our duty to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can to prevent, crime and disorder in our area.

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 the facts and the relevant representations made.

We are satisfied that in all the circumstances the impact of the grant of the premises licence on the licensing objectives does not necessitate a rejection of the application for the following reasons.

This was a limited application to sell alcohol until 23.00 hours (22.30 hours on Sundays) and neither the Police nor Environmental Health objected which is a weighty consideration. Many of the complaints and concerns expressed by the interested parties were general and not supported by evidence.

We were told that the DPS is very experienced; that the sale of alcohol would only be a small part of the business; single cans of alcohol would not be sold; that the business would not target the alcopop market and that alcohol would be kept by the counter. All of these assurances were helpful.

We were also encouraged to hear that the applicant and the DPS had been pro-active in expressing an interest in getting involved in anti-crime initiatives such as attending pubwatch meetings etc.

Conditions

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

The effective date of this decision

This decision takes effect immediately. However, the premises cannot be used in accordance with this decision until 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

All the interested parties have a right of appeal to Aylesbury Magistrates' Court against this decision.

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.

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FOLLOWING A HEARING ON 31 JANUARY 2012 AT THE COUNCIL'S GATEWAY
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**Application by Mr Pshteuin Karem Sayar to vary the premises licence for Roosters, 5
High Street, Buckingham MK18 1NT**

Members of the Sub-Committee

Cllr Judy Brandis (Chairman)
Cllr Corry Cashman
Cllr Andy Huxley

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 Roosters, 5 High Street, Buckingham. The application seeks permission to extend the standard and non-standard timings of the premises as follows.

In respect of the standard timings, it is proposed that the hours the premises are open to the public on Fridays and Saturdays be extended by 15 minutes until 01.45 hours. As a consequence, the application also seeks to remove a condition attached to the licence requiring the doors of the premises to be locked at 01.20 hours and prohibiting new customers from entering the premises after that time. But the application effectively re-introduces a varied form of this condition, namely, that "the doors to the premises to be closed at 01.30 hours and a closed sign displayed".

As for non-standard timings, it is proposed that during bank holiday weekends (i.e. Friday, Saturday and Sunday) the terminal hour for the provision of late night refreshment and the opening hours be extended by an extra hour. On Christmas Eve and New Year's Eve it is proposed that the terminal hour for the provision of late night refreshment be extended to 02.00 hours and be open to the public until 02.15 hours.

The applicant, Mr Pshteuin Sayar, attended the hearing in support of his application and was represented by Mr Andrew McGrath of Total Licensing Solutions.

The application received representations from Environmental Health, acting in its capacity as a responsible authority, and 5 representations from interested parties. Namely, Mr James Lowe; Mr Peter Thirlby; Mrs Liz Zettl; Mrs Susan Byrne and Mr Mike Smith, Chairman of the Buckingham and Maids Moreton Neighbourhood Action Group.

In his written representations, Mr Neil Green, on behalf of Environmental Health, stated that in June 2011 two complaints had been received that the premises had been trading beyond its permitted hours and that two further complaints had been received objecting to the extension of

the opening hours of the premises on the grounds of disturbance caused by noise from customers late at night. Although predicting the outcome of the application was uncertain in his view, an extension of the standard timings could possibly lead to a reduction in noise disturbance if it meant fewer customers had to be turned away. Mr Green said he had no objection to the extension of the non-standard timings.

Mr Green did not attend the hearing.

The interested parties objected to the application for various reasons. It was argued that it would exacerbate existing problems concerning the incidence of crime and disorder, nuisance, disturbance and anti-social behaviour (people screaming, shouting, swearing and fighting) outside the premises on Fridays and Saturdays. There were complaints about the premises trading beyond its permitted hours, not complying with the conditions of its licence and the poor running of the premises.

Mr Lowe (who also represented Mrs Zettl and Mrs Byrne) and Mr Thirlby attended the hearing and took part in the discussion we led.

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.

At the hearing, Mr Lowe and Mr Thirlby reaffirmed their strong objection to the application and expressed their concern about the disturbance they would suffer even later at night. Mr Thirlby warned that longer hours would simply mean more customers and a worsening of the current situation.

Mr Sayar and McGrath strongly refuted the allegations of non-compliance and explained the problems they had experienced trying to provide a rubbish bin outside the premises. Mr McGrath argued that the premises was not responsible for the general problems the interested parties had complained of and that the service Mr Sayar provided alleviates the mainly alcohol induced problems.

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 have also taken into account our duty to have due regard to the likely effect of the exercise of our discretion on, and the need to do all we reasonably can to prevent, crime and disorder in our area.

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 the facts and the relevant representations made.

We have taken into account that local residents have a right to respect for their private and family life and their home. They are entitled therefore not to be disturbed by unreasonable noise and nuisance. However, this is a qualified right and has to be balanced against the rights of others including the rights of businesses in the area to operate.

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 application for the following reasons.

The application was very limited and might even improve the current situation.

Although the premises has to recognise the role it plays in the problems the local residents complained about, in the context of this particular variation application, attributing the problems, which are mainly alcohol related, to a take-away premises was not justifiable.

The fact that the police had not made a representation at all or that Environmental Health did not object to the application were weighty considerations.

Having said all of that, we do take this opportunity to warn Mr Sayar that he must comply with all the conditions of his licence all of the time. Even occasionally exceeding permitted hours is unacceptable and irresponsible. We remind Mr Sayar that this means that not only must any telephone orders be taken before the terminal hour but also collected/delivered.

Given the residents' complaints, we feel that the authorities should monitor the premises to ensure that it is complying with the conditions of its licence and consider taking appropriate enforcement action if inexcusable breaches persists in the future. As Mr McGrath himself mentioned, local residents and the responsible authorities have a right to apply to review the licence if the problems identified are not properly addressed.

We recommend that in addition to displaying a closed sign which Mr Sayar has already volunteered, the opening and closing *times* of the premises be clearly displayed so that customers know what time the premises closes. We also suggest that Mr Sayar prints the new closing times in any takeaway menus/flyers he uses to advertise his premises which could then be deposited at pubs and clubs in the locality.

During the course of the hearing, the benefits of Mr Sayar maintaining a constructive dialogue with the local residents in the immediate vicinity of his premises was mentioned and we sincerely hope that Mr Sayar will make a concerted effort to do just that.

Conditions

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

The effective date of this decision

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