

**Aylesbury Vale District Council**

**DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE  
FOLLOWING A HEARING ON 20 NOVEMBER 2012 AT THE COUNCIL'S  
GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY**

**Application by New Zealand Aylesbury Limited**

**Members of the Sub-Committee**

Cllr Huxley (Chairman)  
Cllr Hawkett  
Cllr Mrs Renshell

**Declarations of interest**

None.

**The application**

This is an application by New Zealand Aylesbury Limited for a new premises licence for New Zealand Public House, Buckingham Road, Aylesbury. The application seeks permission for the following:

Supply of alcohol (on and off sales to include beer garden and smoking shelter)

Monday – Tuesday 10:00 – 23:00  
Wednesday –Saturday 10:00 – 00:00  
Sunday 12:00 – 22:30

Recorded Music, indoor sporting events, anything of a similar nature (indoors only)

Monday – Tuesday 10:00 – 23:00  
Wednesday –Saturday 10:00 – 00:00  
Sunday 12:00 – 22:30

Live Music

Wednesday –Saturday 23:00 – 00:00

The Applicant was represented by Mr and Mrs Arnold who own the premises and Mr Andy Phipps who will be running the Premises as DPS. The Applicant had also called Alexander Wright, Chairman of the Campaign for Real Ale, as a witness and had given the council due notice.

Before the hearing the Applicant confirmed that they would only be providing live music when they were supplying alcohol, therefore the Live Music Act 2012 took effect. This resulted in the hours they were seeking live music to be effectively reduced to those above because otherwise the times they wished to play live music falls within the Live Music Act 2012.

There were two representations from Responsible Authorities; namely the Thames Valley Police and Environmental Health. Trevor Hooper attended from Thames Valley Police. Neil Green attended from Environmental Health.

There were a number of representations from interested parties and all parties were represented, either by themselves or a nominated representative.

During preliminary issues the legal advisor, Abigail Morgan, informed all parties about the recent legislative changes surrounding live music and the affect it had on the application before the sub-committee today.

Trevor Hooper from the Police stated he had nothing further to add in addition to his representation because the Applicant had agreed to his suggested conditions. When questioned Mr Hooper confirmed he had researched back 5 years and there was no recorded incident apart from when an individual collapsed as a result of a medical condition.

Neil Green, from Environmental Health confirmed the Council had received no complaints regarding the Premises and was satisfied with the application. When questioned Mr Green confirmed he had looked at records back to 2005. There had been a recent complaint earlier this year for noise but this was for a private party when the premises was not operating as a pub.

A number of interested parties then presented their representations to the sub-committee.

Mr Abbey spoke on behalf of Mr Bird and himself as a resident living opposite the Premises for 35 years. He stated that he felt the premises were going to be more of a club than a pub and that the music levels are unacceptable. Previously entertainment had been mostly at weekends. He believes the notices will be ignored and that keeping doors and windows closed would be hard to enforce.

He has fears about anti-social behaviour and wants his right to peace and quiet to be upheld. They have recently had disturbances until 3:00am in September when the pub was not open.

Mr Peter Vaughan then presented his objection, stating that Mr Abbey had already covered a number of his points. He felt that parking provision was not adequate. He feels that his peace will be disturbed late at night and into the early hours from the overspill of young people shouting and urinating. He acknowledged that the building had been a public house for many years and previously it had been mainly a drinking and food establishment, he wouldn't take issue with this, but it seems to be more about music and other events. He noted that the pub was in very close proximity to the nearest residential dwellings, 14 feet to the north and only inches to the south due to an extension to the premises.

Mr Nigel Gurney spoke next, stating that he is disturbed directly by music in the evenings. He has been a resident there for 26 years and in the old licence the hours were much more restrictive so had a break from any disturbance. Nowadays due to the smoking ban and 24 hour licensing, it causes concern. His main problem is from the beer garden, from revving of cars, bad language and slamming car doors. He questioned whether a sound limiter would be appropriate as he had used them previously when doing discos.

Mr Trevor Blackman then spoke. He fully concurred with the previous interested parties representations. His main concern was from the music and language flowing from the back of

the premises. The smoking area which was previously created when the pub was open had a solid roof and wall and two trellis sides with seating and a gas heater making it very comfortable for people to sit and chat for a long time. The language is very bad and frequently he has bottles thrown into his garden. He finds the noise and swearing upsetting.

Mrs Frances Gurney outlined that she has to work very long hours, rising early and going to bed early. If there is loud music she cannot sleep which will affect her ability to do her job. She questioned whether the pub was air conditioned given the condition of keeping windows and doors closed? She loves to sit in her garden but often she can't and can't invite friends round due to the noise and language from the beer garden. She fears that the noise experienced in September is a sign of things to come.

The Interested Parties, when questioned, confirmed that they had lived in the vicinity for the following periods:

- Mr Abbeys 35 years in Kenilworth Road
- Mr Gurney 26 years
- Mr Blackman 23 years.

The Applicant then presented their application.

Mr Andy Phipps who is the proposed landlord spoke first. He outlined that he currently runs the Britannia Public House and has done so for 10 years without any problems. He has applied for live music and recorded music, but in his current pub he only has live music every 2 months, it won't be any different in the New Zealand. He does not intend on having live music during the week and there will be nobody outside after 23:00 as agreed with the Police. He respects his neighbours and tells his patrons to leave quietly. He tackles underage drinking and has a zero tolerance on underage drinking and drugs. The pub is going to serve bar food and real ale. It is in a residential area and wants to serve the community. He has lived in the area for 60 years and knows the area well.

Mr Alexander Wright then spoke for the Applicant stating that they hope to bring real ales to the Premises which would attract a different kind of customer. He stated that the Premises are served by a bus and people are less likely to take a car due to drink driving laws. He enjoys live folk music which isn't always for the young so the associated problems might not happen.

Mr Steve Arnold then spoke as the Applicant. He stated he is the owner of the premises. The pub has been a pub since 1901. He was turned down for planning permission to convert the pub into residential housing so they have decided to keep the pub as a pub. Given the pub's location it is within easy walking distance of residential housing. The proposed landlord, Mr Phipps, has an exemplary record and actively seeks to manage noise. The pub has 14 car parking spaces and a bus stop right outside. He has many people who support the re-opening but none made a representation within time. The immediate neighbour supports him.

Upon questioning by both interested parties and the sub-committee panel, Mr Phipps confirms he has a zero tolerance policy towards noise nuisance and other problems. He monitors issues himself as he is always on the premises. If he receives complaints he deals with them and answers them as he respects his neighbours. The recorded music will be a juke box and the occasional disco. In the pub he runs now he has had 2 discos in 1 year and very rarely live music, the age group of his customers is 40+ so would be rare, but need to apply, so got it. He

doesn't intend on live music every night. He invited the interested parties to come and see him if they have a problem with noise. He confirmed he believes the hours are standards hours and are not over-the-top for the pub and its location. There won't be bands until 00:00 during the week. In terms of controlling people piling out of the pub on closing, customers will be asked to leave quietly and respect neighbours. Not all people in the area causing nuisance come from his pub.

Mr Arnold then answered some questions regarding planning, though it was brought to the attention of the parties that this was a licensing hearing and planning was irrelevant.

Mr Phipps confirmed that he and his daughter will work full-time at the pub and have a room each there, plus one other staff member. In addition he will employ 1 or 2 part-time people depending on the day. He is not certain what is happening with the Britannia as he is just the leaseholder, there may be a short time when he is running both, but his focus will be on the New Zealand. He actively talks to his customers and has notices asking people to ensure they leave in an orderly and quiet manner.

They confirmed that Mr Arnold is applying for the licence as owner of the building but Mr Phipps is the DPS. He will lease the premises. He intends on selling bar food but the New Zealand PH won't be a restaurant.

When Mr Phipps has caught people using drugs previously he has barred them and has told the police. He is in the Pub Watch scheme which are using sniffer dogs once a month or so to check for drugs. He will be having CCTV.

Mr Arnold confirmed that there are two air conditioning units which were installed previously and they have retained having just refurbished the premises.

Trevor Hooper confirmed that the Britannia was the second pub in his area that Mr Phipps had run; both pubs had had a chequered history but whilst Mr Phipps was in charge he had no problems with either.

Each party summarised their points.

Mr Green covered noise limiters, saying that at times they can be useful and if the sub-committee were minded to request one, would ask that the limit be set in conjunction with environmental health.

Mr Hooper stated that the licensing act paperwork is very bland and therefore the applicant must apply for the maximum they may want otherwise they may break the law.

The interested parties re-iterated their concerns regarding noise nuisance and the close proximity of the Premises to residential housing.

Mr Wright stated that it was a valuable community resource which he wouldn't want lost.

Mr Arnold confirmed he had nothing further to add. He feels they have a good landlord and hopes that he can alleviate any problems the interested parties may have.

## **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 appropriate 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 have heard that the Police and Environmental Health are satisfied with the amended application and agreed conditions.

We are therefore satisfied that in all the circumstances the impact of the new premises licence on the licensing objectives does not necessitate a rejection of the application. The sub-committee did feel, having regard to the residential area, that live music should not be granted for Wednesday and Thursdays 23:00 – 00:00. Therefore the hours granted for the licensable activities are as follows:

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Monday – Tuesday 10:00 – 23:00  
Wednesday –Saturday 10:00 – 00:00  
Sunday 12:00 – 22:30

Recorded Music, indoor sporting events, anything of a similar nature (indoors only)

Monday – Tuesday 10:00 – 23:00  
Wednesday –Saturday 10:00 – 00:00  
Sunday 12:00 – 22:30

Live Music (indoors only)

Friday –Saturday 23:00 – 00:00

### **Conditions:**

1. No alcohol to be taken into the gardens (front and rear) after 23:00 hours.
2. Notices shall be displayed close to all entrance / exit doors of the premises reminding customers that the pub is in a residential area and to respect the needs of local residents

and advising the customers to leave the premises, including the car park and the surrounding area quietly.

3. If a customer appears to be under 21 there shall be no sale of alcohol unless the customer proves he or she is over the legal age limit for the purchase of alcohol. The compliance with this condition shall be in accordance with the “Challenge 21” initiative or equivalent standard.
4. Save for entry and exit purposes, when regulated entertainment is provided, all windows and external doors shall remain closed.

The sub-committee were pleased to hear that Mr Phipps, who will be the DPS, takes a very proactive role in managing all potential issues, including drug misuse, underage sales and noise nuisance. The sub-committee hopes that the Interested Parties do raise any issues with noise nuisance or anti social behaviour with Mr Phipps.

### **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**

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.

21 November 2012