

Aylesbury Vale District Council

**DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE
FOLLOWING A HEARING ON 4 JUNE 2013 AT THE COUNCIL'S GATEWAY
OFFICES, GATEHOUSE ROAD, AYLESBURY**

**Application by Louis Kitchen Ltd to vary the premises licence for 53-54 Nelson Street,
Buckingham MK18 1BT**

Members of the Sub-Committee

Cllr Michael Rand (Chairman)
Cllr Janet Blake
Cllr Steven Lambert

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 53-54 Nelson Street, Buckingham MK18 1BT. The application was made by Louis Kitchen Ltd and seeks permission to extend the hours the premises can sell alcohol and is open to the public and to add the licensable activity of late night refreshment as follows:

	Alcohol (for consumption on the premises and with food only)	Late night refreshment	Opening hours
Mon- Wed & Sun	23:00	23:30	23:30
Thurs-Sat	Midnight	00:30	00:30
Sundays of bank holiday weekends	00.30	00:30	00:30
Week leading up to Christmas day (Mon - Wed & Sun as appropriate)	00.00	00:30	00:30
Christmas eve	01:30	02:00	02:00
New Year's eve	01:30	02:00	02:00

The applicant was represented by Steven Myhill; Louis Myhill and Michael Norris.

None of the responsible authorities made a representation in response to the application but the following residents did: Jenny Bates; Andrew Wighton; Neil Turner; Gino Ballantyne and Ann Kilburn.

Some of the residents reported disturbances they had suffered since the opening of the restaurant last year caused by taxis and cars dropping off and picking up customers and customers talking loudly outside the premises whilst smoking and in the street when going home. Mainly, however, the residents expressed concerns about the future. In particular, noise levels increasing and the noise nuisance and disturbance they feared they would suffer later at night if the premises stayed open until later and especially if alcohol was served for longer.

As public health and road safety are not licensing objectives for the purposes of the Licensing Act 2003, we could not take into account concerns about the damaging health effects of increased consumption of alcohol and poor visibility caused by parked cars.

Only Ms Bates and Mr and Mrs Wighton 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.

In support of the application the following was argued:

The extension was needed for two sittings as currently there was not enough time for all customers to have a dessert and finish their drinks and/or coffees comfortably and to secure the financial viability of the restaurant.

Temporary event notices (TENs) had been used to extend closing times without complaint or even the residents realising.

They cater for an older customer base and are not allowed to serve alcohol without food and encourage their customers to leave quietly and be considerate to the local residents.

At the hearing, Mr Wighton and Ms Bates explained their concerns or fears about what might happen if the licensing hours were extended.

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

The variation was limited in terms of the times and the actual permissions.

The premises is not located in an area which is solely residential and is a restaurant which is required to serve food with alcohol.

The concerns the residents expressed about the future were speculative and were not substantiated.

It appeared to us that the premises has been properly managed in the last year. We would, however, take this opportunity to remind the applicant's representatives that they had volunteered to join the Pubwatch scheme when they applied for a licence last year and that they should deliver on their promises to engage with local residents and maintain a dialogue. However, as this is a two way process, we would also strongly urge the residents to report any concerns they have to the premises itself in the first instance and in a timely fashion and work as constructively as they can to resolve any problems.

There was no evidence of any complaints having been made to the authorities. The fact that the responsible authorities which made representations to last year's application did not do so on this occasion suggested to us that they did not share the concerns expressed by the residents.

On the facts of this case, the successful use of TENs did seem to demonstrate that the premises was capable of operating later without causing a disturbance.

If the residents experience problems in the future which cannot be satisfactorily resolved by the parties themselves, we would strongly advise them to record and report their complaints to the relevant authorities.

We would also advise the applicant's representatives that there is no room for complacency. If problems do in fact arise in the future, both the residents and the responsible authorities will be able to apply for a review of the licence.

We would also record in this decision notice Ms Bates' concern about the disturbance she told us she would suffer as a result of the increased number of bottles being collected from the premises. Mr Norris told us that the only day that the bottles were collected in the morning was Friday and that the contractor had been instructed to collect the bottles after 8.00am only. Mr Norris assured us that he would instruct the contractor again not to collect the bottles any earlier than 8.00am and, if possible, at a later time. We were also promised much more monitoring of the noise impact of the premises initiated by the premises itself. These are things we would expect to happen.

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 residents who made a representation 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.

5 June 2013