

Aylesbury Vale District Council

**DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE
FOLLOWING A HEARING ON 28 APRIL 2014 AT THE COUNCIL'S GATEWAY
OFFICES, GATEHOUSE ROAD, AYLESBURY**

**Application by Mr Timothy Chafor for a premises licence for Chafor Vineyard, High
Hedges, Preston Bissett Road, Gawcott, Buckinghamshire MK18 4HT**

Members of the Sub-Committee

Cllr Judy Brandis (Chairman)
Cllr Michael Rand
Cllr Jackie Phipps

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 Chafor Vineyard, High Hedges, Preston Bissett Road, Gawcott, Buckinghamshire.

The application seeks permission for the sale of alcohol (for consumption on and off the premises); the playing of recorded music, the performance of live music, the performance of dance and other similar forms of entertainment (both indoors and outdoors); the exhibition of films (indoors only) and the provision of late night refreshment (both indoors and outdoors). Other than the provision of late night refreshment which is only licensable from 23.00 hours, the application seeks to start these activities at 09.00 hours and to finish at midnight.

The applicant, Mr Timothy Chafor, attended the hearing as did his assistant Carrie Harlington.

None of the responsible authorities made a representation in response to the application but 6 other representations had been received from local residents and Gawcott with Lenborough Parish Council raising a number of concerns and objections (not all of which were relevant in the context of this licensing regime) including noise (in particular, because of disturbance caused by private functions in the past); traffic; car parking and litter.

The following local residents objected to the application: Mr Stephen and Judith Harper; Mr Richard and Kathryn Spedding; Mr and Mrs Aris; Mr Chris Armitage; Mr Laurie Strangman

Prior to the hearing, Mr Chafor did offer to reduce the scope of his application in an attempt to secure the approval of the objectors. However, as at least some of the objections were maintained, at the hearing he presented his original application.

Mr Chafor also relied upon letters of support from Mr Peter Bassett; Mr Leslie and Mrs Beverley Lindsay and Dr Liz and David Thomas. Their letters stated that they live close to the

vineyard and have not experienced any problems in the past and that they do not envisage any problems in the future.

In addition, the Twyford Gardening Society and Gawcott WI also submitted letters in support of Mr Chafor and his application.

Only Mr and Mrs Spedding attended the hearing and took part in the discussion we led. They spoke in support of their own objection and also represented some of the other objectors. We therefore did not consider it to be in the public interest to adjourn the hearing. We, however, considered all the written representations the objectors had made.

At the hearing, Mr and Mrs Spedding told us that they own the adjacent field to the vineyard and that their main complaints and concerns were previous noisy private parties at the vineyard which had caused sleep disturbance and the risk of disturbance and injury to their animals and people straying into their field. They were particularly concerned about the frequency of events and lateness of the terminal hour.

In support of his application, Mr Chafor informed us that the vineyard was in its seventh year of operation and that his was a high quality, premium product. Mr Chafor said that his was an agricultural and not an entertainments business. He was at pains to reassure us that he had no intention to use the premises licence he had applied for “to set up a pub” or, for example, to hold wedding receptions.

Mr Chafor told us that the permissions were needed to sell alcohol (mainly his own wine but possibly his own cider and/or brandy in the future as well as selling other vineyard’s produce) “at the farm gate” in conjunction with wine tastings; vineyard tours, educational visits and open days. Since his target client base, for example, farming groups worked during the day, it was essential for him to have a late evening licence. Moreover, according to Mr Chafor, as the sale of alcohol would take place at the end of the event, usually after a question and answer session and it was difficult to predict how long this would last, he needed the hours he had applied for.

Mr Chafor said that he had a lot of local support – as evidenced by the letters he relied upon. He reminded us that there were no objections from the responsible authorities and that the police had even visited the vineyard.

The kind of entertainment Mr Chafor envisaged was a string quartet; a travelling opera or a small performance of ballet. And that “it is not going to be a regular thing”. Mr Chafor acknowledged that his vineyard was not a pub beer garden and his intention was to allow people to congregate and have a great evening.

Mr Chafor claimed that the provision of this form of entertainment would not cause a nuisance and that in any event the residents were protected because if they experienced actual problems they could apply for a review of the premises licence.

Mr Chafor dealt with the traffic concerns by stating that there would be no need to drive through Gawcott to access the vineyard. As for parking, he stated that there was hard-standing in front of the barn for 20 spaces and that there would be no need for any on-road parking.

In response to a specific concern raised by Mr and Mrs Spedding, Mr Chafor stated that as part of on-going improvements he would make the gateway between their respective land holdings more secure.

That said, in response to the objections made, Mr Chafor agreed to reduce the scope of this application as follows. To bring forward the terminal hour for regulated entertainment to 23.00 hours and for the sale of alcohol to 23.30 hours. He also agreed to remove the right to provide late night refreshment from his application altogether.

Mr Chafor's concluding remarks were that he saw the licence as a privilege and that he would do everything he could do to protect it and that he appreciated the need to be considerate to his neighbours.

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 the objectors 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 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 grant of the premises licence on the licensing objectives does not justify a rejection of the amended application for the following reasons.

The amended application is limited in scope and we assess its impact to be low.

We have to decide this application on its own particular facts and on the information presented to us. Having provided us and the residents with the assurances that Mr Chafor has on the nature of his business and the use he intends to make of the licence he satisfied us that there was no reason to refuse the licence.

The concerns the residents expressed about noise disturbance seemed to almost entirely rest on private parties held in the past. Those events did not of course require a licence and as Mr Chafor pointed out a commercially run event which is the subject of a licensing regime should be treated differently. That said, if there are problems in the future then the responsible authorities and the residents can apply for the premises licence to be reviewed which Mr Chafor should bear in mind.

In addition, the fact that none of the responsible authorities raised concerns about this application must weigh heavily with us.

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

The objectors 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.

29 May 2014