

## **Aylesbury Vale District Council**

### **DECISION OF THE LICENSING AND GAMBLING ACTS SUB-COMMITTEE FOLLOWING A HEARING ON 4 JUNE 2014 AT THE COUNCIL'S GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY**

#### **Application by Mr Himanshu Vashani and Mrs Bindoo Vashani for a premises licence for Premier, 1 Cruickshank Drive, Wendover, Buckinghamshire HP22 5FD**

#### **Members of the Sub-Committee**

Cllr Timothy Mills (Chairman)  
Cllr Andrew Huxley  
Cllr Peter Cooper

#### **Declarations of interest**

None

#### **The application**

The Sub-Committee have given careful consideration to the application before it, namely, to grant a premises licence for Premier, 1 Cruickshank Drive, Wendover, Buckinghamshire.

The application seeks permission for the sale of alcohol (for consumption off the premises) only between the hours of 07.00 hours and 21.00 hours.

The applicants, Mr and Mrs Vashani attended the hearing and were legally represented by Miss Saira Ali of Paul Lucas Solicitors.

None of the responsible authorities made a representation in response to the application but 10 representations had been received from local residents raising a number of concerns and objections such as the fear of anti-social behaviour; noise nuisance; litter; vandalism; parking and planning constraints and the lack of demand. The following residents objected to the applications: Lalitha Mahadavan, Allister Smith, J Horlock, L Horlock, Mrs K Kay, Mark Lewis, Andrew Kay, Mr and Mrs Sheasby, Graeme Mitchell and Barbara Kay.

Prior to the hearing 7 of the objectors sent their apologies but asked that their representations still be taken into consideration. Allister Smith attended the hearing as did Mr Gunaratnum who represented Lalitha Mahadavan. We therefore did not consider it in the public interest to adjourn the hearing. We, however, considered all written representations the objectors made, including an additional submission from Allister Smith and a written statement from Mrs Bindoo Vashani along with a petition and various letters in support of the application.

At the hearing Mr Smith confirmed that he had no ill-feeling towards the business of Premier and that his objection only related to the sale of alcohol. He was one of the first to move to the development and had experienced alcohol fuelled anti-social behaviour and subsequent police attendance. Mr Smith urged the Sub-Committee to not underestimate the local resistance to the application and pointed out that the public notice displayed on Premier was

obscured during the evenings when the security shutters were pulled down and hence a number of people were unaware of the application. He informed the Sub-Committee that alcohol was readily available for sale in other retail establishments in Wendover and was not appropriate for the quiet development served by Premier.

Mr Smith emphasised that there were already restrictions on the business in respect to trading hours and the sale of alcohol, although upon questioning it appeared to be merely an assurance from the developer as opposed to a formal planning constraint. Mr Smith referred to inadequate parking and the hazard presented by the junction adjacent to Premier. He also drew attention to the children play areas very close to the business and gave examples of litter he had found in the vicinity such as cans, bottles and pizza boxes. Another potential concern was the close proximity of Wendover Woods and the potential for people to purchase alcohol and conceal themselves in the woods. Finally Mr Smith raised worries that local RAF recruits might use the premises to obtain alcohol.

Mr Gunaratnam confirmed that he had lived on the development for 4 years and that an important part of his decision to move there was based on being told that the local convenience store could not sell alcohol because it did not have a licence. This was obviously true at the time but it seems that no enquiry was made about the ability to apply for such a licence any time in the future. He believed that allowing the sale of alcohol would change the way the development was viewed. Mr Gunaratnam, pointed out that the shop was deep in the development and would present a risk of more people, especially young people, acquiring alcohol. He also referred to the junction and inadequate parking or space for deliveries; the close proximity of children play areas and Wendover Woods and the risk of additional traffic posed by this application. Finally Mr Gunaratnam informed the Sub-Committee that there were about 300 homes on the development and that the petition submitted by Mr and Mrs Vashani did not represent the overall feeling.

In support of Mr and Mrs Vashani's application, Miss Ali informed the Sub-Committee that the applicants were responsible and experienced licensees. Mrs Vashani had held a personal licence for the last 12 years, during which time they had never failed a test purchase for the under-age sale of alcohol. Miss Ali described that they had made an application in November last year for the sale of alcohol but withdrew it after receiving a number of objections because they did not want to upset the local community. Instead they decided to trade and listen to what the wider community required. Mr Vashani explained that he and his wife had spoken to the police and were unaware of any anti-social behaviour problems. Miss Ali referred to the petition of support for the application and pointed out how close many of the supporters lived to Premier and suggested that the overwhelming evidence was that the majority of the community supported the application.

In addition Miss Ali pointed out that there were no objections from responsible authorities and then referred to the thorough and detailed 'operating schedule' within the application form. She confirmed that CCTV had already been installed with 12 cameras in all, both inside and outside and that they would be operating the 'Challenge 25' scheme. She also informed the Sub-Committee that although the application seeks a terminal hour of 9.00 p.m. the shop actually closes at 8.00 p.m. Miss Ali suggested that the objectors' fear of the link between the sale of alcohol and anti-social behaviour was a tenuous link and pointed out that Tesco Express traded less than 1 mile away and closed at 11.00 p.m. In respect to the location she told the Sub-Committee that Premier is a community shop and so by definition needs to be close to the community. Upon questioning it was pointed out to Mr and Mrs Vashani that

the operating schedule within the application form described opening hours of 6.00 a.m. to 10.00 p.m. They subsequently confirmed that this was a drafting error and should read 7.00 a.m. to 9.00 p.m.

### **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, for example, anti-social behaviour or a 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 application for the following reasons.

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

The concerns and fears raised by the objectors were speculative.

The complaints seem to be general ones and not specific to this application.

There was no evidence or even credible information of the premises causing or contributing to any alleged problem.

The applicants are responsible and experienced shop owners and managers and have a good track record.

The application was supported by hundreds of residents many of whom live very close to the premises.

The application form detailed the very helpful steps the applicants would take to avoid problems arising in the future. Moreover, even if there are actual problems in the future, affected residents could request that the premises licence be reviewed.

There were no representations from the responsible authorities which is significant given the existing problems alleged by some of the objectors.

The parking, planning and demand objections were not relevant and could not be taken into account.

### **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.

13 June 2014