



Licensing Sub-Committee minutes

Minutes of the meeting of the Licensing Sub-Committee held on Monday 21 June 2021 in Via Video Conference, commencing at 10.40 am and concluding at 1.00 pm.

Members present

J Rush, B Stanier Bt, A Wood and W Whyte

Others in attendance

K Ashton and A Thomlinson, T Vlhovic and W Whyte

Agenda Item

1 Introductory remarks by the Chairman

The Chairman welcomed everyone to the meeting and members and officers assisting the members were introduced.

Also in attendance was the store manager, the applicants agent and several interested parties who had submitted representations on this application.

2 Apologies for absence

- Mrs Robinson, speaking in objection, gave her apologies.
- Councillor Warren Whyte, speaking in objection, has indicated he will need to leave to chair another meeting starting 11am.

Both have submitted written comments circulated with the agenda.

3 Declarations of interest

There were none.

4 Hearing Procedure Rules

All present confirmed that they had understood the procedure rules that applied to this hearing.

5 Buckingham Simply Food Connect, Stratford Road, Buckingham, MK18 1NY

Members were asked to determine an application for a new premises licence, in respect of which relevant representations had been received. The Application had been submitted by BP Oil UK Ltd ("the applicant") in relation to Buckingham Simply Food Connect, Stratford Road, Buckingham, MK18 1NY ("the premises").

Following a detailed discussion all parties present confirmed that they were satisfied

that they had received a fair hearing and had nothing further to add. The Sub-Committee retired to make its decision which can be seen in the attached decision notice.

LICENSING ACT 2003

Sections 34, 35, 36 and Sections 19, 19A and Licensing Act 2003 (Hearings) Regulations 2005/44 and Licensing Act 2003 (Hearings) Amendment Regulations 2005/78

NOTIFICATION OF GRANT OF APPLICATION FOR A VARIATION OF A PREMISES LICENCE WHERE RELEVANT REPRESENTATIONS WERE MADE

PREMISES: Buckingham Simply Food Connect, Stratford Road, Buckingham, MK18 1NY

To:

The Applicant – BP Oil UK Ltd
Any Persons who made Relevant Representations
Any Responsible Authority who made Relevant Representations
The Chief Constable of Thames Valley Police

Take Notice

THAT following a determination of the Licensing Sub-Committee

ON 21st June 2021

BUCKINGHAMSHIRE COUNCIL as the Licensing Authority for the Premises

HAS AGREED

TO GRANT A VARIATION OF A PREMISES LICENCE SUBJECT TO the mandatory and other conditions set out in Schedules 1, 2 and 3 below.

SCHEDULE 1

Mandatory Conditions

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2003

For the purposes of this schedule:

“the Act” means the Licensing Act 2003

“Disability” has the meaning given in section 6 of the Equality Act 2010

“Relevant Premises” has the meaning given in paragraphs (a) and (b) of the definition in section 159 of the Act

“Responsible Person” has the meaning given in paragraphs (a) and (b) of the definition in section 153(4) of the Act (the relevant parts of which are attached to this licence)

S19 of the Licensing Act 2003 – Supply of Alcohol

No supply of alcohol may be made under the premises licence –

- a. At a time when there is no designated premises supervisor in respect of the premises licence; or
- b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010 AS AMENDED BY THE LICENSING ACT 2003 (MANDATORY CONDITIONS) (AMENDMENT) ORDER 2014

Mandatory Condition 3

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or older age as may be specified in the policy) to produce on request, before being served with alcohol, identification bearing their photograph, date of birth and either: -
 - a. a holographic mark, or
 - b. an ultraviolet feature.

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2003 (MANDATORY CONDITIONS) ORDER 2014

Mandatory Condition 5

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1:-
 - a. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b. “permitted price” is the price found by applying the formula –
$$P=D + (D \times V)$$

where

- i. P is the permitted price;
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence:-
- i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e. “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

SCHEDULE 2

Conditions consistent with the Operating Schedule submitted by the Applicant

Supply of Alcohol (off the premises)

Everyday 00:00 –24:00

Hours Premises Are Open to the Public

Everyday 00:00 –24:00

Prevention of Public Nuisance

- Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

Protection of Children from Harm

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photo card driving licence bearing a holographic mark or other form or method of identification that complies with any mandatory condition that may apply to this licence.

SCHEDULE 3

Conditions necessary to promote the Licensing objectives and agreed in response to the representations made

Prevention of Crime and Disorder

- A digital CCTV system will be installed, or the existing system maintained, such system to be fit for purpose.
- The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded digitally or on CD/DVD or other equivalent medium.
- Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police or an authorised officer on request.
- CCTV cameras will be located within the premises to cover all public areas including entrances and exits.
- The system will display, on any recording, the correct time and date of the recording.
- The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

Public Safety

- In the event that there is only a single member of staff present at the premises the premises doors will be kept closed and locked and any sales will take place through the night pay window.

Prevention of Public Nuisance

- Between the hours of 24:00 and 08:00:
 - The purchase of alcohol is to be by delivery only
 - The purchase of alcohol for delivery is to be paid for by credit card/debit card or other form of electronic payment

- Any person or automated system taking an order for the supply of alcohol on behalf of the premises licence holder shall inform customers that proof of age by way of photo card driving licence, passport or a form of identification with the PASS hologram may be required before alcohol is supplied in accordance with the Challenge 25 age verification scheme (or older if the licence holder so elects).
 - The premises licence holder shall ensure that any third party delivery/courier company trains its couriers/drivers on relevant aspects of the Licensing Act 2003 including underage sales, sales to a person who is drunk, delivering alcohol to someone under the age of 18 years and the Challenge 25 age verification scheme
 - Delivery of alcohol shall be to a residential address or place of work [specified in the customer order]. The delivery of alcohol must be by way of hand over to a person.
 - The delivery driver/courier shall require proof of age, from the person taking the delivery of the order by way of photo card driving licence, passport or a form of identification with the PASS hologram, in accordance with the Challenge 25 age verification policy (or older if the licence holder so elects). before the alcohol is handed over.
 - All persons delivering alcohol shall be over 18 years of age.
- Prominent clear and legible notices shall be displayed at entrances/exits requesting staff, couriers/ drivers and customers that the premises is located in a residential area and to respect the needs of local residents and to leave the premises and the area quietly

Reasons for the Panel's Decision

In reaching their decision the Panel took into account the twenty objections raised by local residents and public bodies both written and oral and the representations made on behalf of the applicant.

The Panel noted that there had been no representations from other responsible authorities, in particular, the Chief of Police in respect of the licensing objective of prevention of crime and disorder and the Environmental Health Department in respect of the licensing object of the prevention of public nuisance.

The Panel were sympathetic to and understanding of the concerns raised by the application and noted in particular, the residential nature of the location of the premises. The Panel noted that there was a fear that the licensing objectives of public nuisance and crime and disorder would be undermined by anti-social behaviour and possible driving offences related to the consumption of alcohol. In addition, the Panel acknowledge the wider concerns expressed regarding those in society with alcohol dependency issues. The Panel also took note that a number of the objections were similarly worded. However, the Panel took account of the fact that there has been no history of complaints relating to the licensing objectives in respect of this licensed premises. Taking all the evidence into account and in the absence of representations from responsible bodies the Panel found that there

was no evidence to suggest that the proposed variation to the premises licence would undermine the licensing objectives.

In making their decision, the Panel also took into account the legislation, the statutory guidance issued under Section 182 Licensing Act 2003 and the Aylesbury Area Licensing Policy Statement.

In particular, the Panel had regard to paragraphs 10.13 to 10.15 of the statutory guidance in respect of the hours of the business.

In addition, the Panel also considered the Licensing Policy Statement covering the Aylesbury Area, in particular, Section 4 relating to the hours of a business and the balance to be struck between the rights of local residents and the premises licence holder.

The Panel considered very carefully the Buckingham Terminal Hours Policy which forms part of the Aylesbury Vale Area Licensing Policy Statement and recognised the unique nature of Buckingham Town Centre and the reasons for the introduction of the Policy. However, the Panel decided to agree to the grant of the variation of the premises licence and to depart from the policy for the following reasons:

- The premises is already open and trading for 24 hours a day at present.
- As a garage the premises already experiences vehicle traffic and there is no evidence that the changes will lead to a substantial increase in traffic.
- The applicant in offering the proposed conditions and agreeing to the amendments proposed to those conditions is seeking to promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder.

The Panel has taken into account the relevant provisions of the Human Rights Act 1998, namely:

- Article 6 – the right to a fair hearing
- Article 8 – respect for private and family life
- Article 1, First Protocol – peaceful enjoyment of possessions.

The Panel considered that in granting the application with the conditions attached a balance has been struck between the rights of residents to private and family life and the rights of the applicant.

In all the circumstances, the Panel were satisfied that the application to vary the premises licence, with the revised conditions, was reasonable and proportionate and promoted the licensing objectives of the prevention of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm.

INFORMATIVE: The Panel noted that should issues of public nuisance and crime and disorder occur following the grant of the variation any party is able to request for a review of the premises licence under Section 51 Licensing Act 2003.

Any Party aggrieved by the Decision given in this Notice may make a written Appeal within 21 days to the Clerk to the Justices, Wycombe and Beaconsfield Magistrates Court, Milton Keynes Magistrates Court, 301 Silbury Boulevard, Milton Keynes, Buckinghamshire MK9 2AJ.

A handwritten signature in black ink, consisting of a large, stylized initial 'L' followed by a horizontal line extending to the right.

Clerk to the Licensing Sub-Committee

Date: 28th June 2021

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