

LICENSING ACT 2003

Sections 17, 18(3) and (4), 19, 19(A), 20 and 23(1)(a), (2) and (4) Licensing Act (Hearings) Regulations 2055/44, Licensing Act (Hearings) Amendment Regulations 2005/78 and the Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority, Police and Crime Panel Meetings) (England & Wales) Regulations 2020.

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

PREMISES: Barn A, Rackleys Farm, Marlow Road, Cadmore End, HP14 3PP.

TO: The Applicant - Sargent Charitable Trust
The Applicant Solicitors, Blandy & Blandy LLP
Any Persons who made Relevant Representations
The Chief Constable of Thames Valley Police

Take Notice:

THAT following a hearing of the Licensing Sub-Committee

ON 28th April 2021

BUCKINGHAMSHIRE COUNCIL as the Licensing Authority for the Premises

HAS AGREED

TO GRANT 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)

Section 19 of the Licensing Act 2003 – Supply of Alcohol

No supply of alcohol may be made under this 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 this 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 1

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-
 - a) Games or other activities which require or encourage, or are designed to to require or encourage, individuals to:
 - i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) Provision of unlimited or unspecified quantities of alcohol for free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining the objective;
 - d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e) Dispensing alcohol directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of disability).

Mandatory Condition 2

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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 and supply of alcohol.
2. The designated premises supervisor in relation to the premises 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 eighteen 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 Condition 4

The responsible person must ensure that:-

- a. where any of the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container), it is available to customers in the following measures:-
 - i) beer or cider: ½ pint;
 - ii) gin, rum, vodka, whisky: 25ml or 35ml and
 - iii) still wine in a glass: 125ml
- b. these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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 the 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 enable 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.

Section 20 of the Licensing Act 2003 – Exhibition of Films

1. Where a premises license authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where –
 - a) the film classification body is not specified in the licence, or
 - b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section, “children” means persons aged under eighteen and “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

SCHEDULE 2

Conditions consistent with the Operating Schedule submitted by the Applicant

The prevention of crime and disorder

CCTV

1. The Premises shall have CCTV coverage for all areas to which guests have access (except toilets) which shall be properly maintained in good working order. All images will be stored for a minimum of 31 days. A trained member of staff will be available at all times during operating hours to provide CCTV footage to authorised officers. All equipment must have a constant and accurate time and date generation
2. CCTV shall comply with Data Protection Act 2018 and shall be working and recording correctly when the Premises is open to the public. If the CCTV is not working, the DPS shall notify the Police and shall comply with their reasonable requests before any licensable activities are resumed.
3. The DPS, or in their absence, a nominated deputy, shall be able to show Police recent data footage with the minimum of delay if requested to do so.

Refusals Register & Incident Log

4. A Refusals Register (which shall be regularly reviewed by the DPS) shall be kept at the Premises to record details of any refusals to sell alcohol. This register shall contain the date and time of the incident, a description of the person attempting to purchase alcohol; the name of the staff member who refused the sale, and the reason the sale was refused. The Register shall be made available to the Police and authorised Council Officers on reasonable request.
5. An Incident Log will be maintained by the Applicant that details incidents of note that have occurred on the Premises. This shall include any disorder incidents and shall be available for inspection by an authorised Council Officer on reasonable request.

Prevention of Public Nuisance

1. To minimise the risk of any undue disturbance to local residents and businesses, entrance and exits to the Premises shall be closed (except to allow entrance and egress) at 21:30.
2. Regulated entertainment (in the form of live or recorded music or the exhibition of film) shall only take place within the Premises. With external doors and with doors between the Barn and its conservatory closed (save for access and egress) to reduce the risk of noise emanation.
3. At all times that Regulated Entertainment is taking place in the form of live or recorded music and/or DJ, this shall be provided through an electronic noise limiter. The electronic noise limiter shall be calibrated upon installation and set at a level of 80dB(A)eq15. The noise limiter shall be recalibrated every 12 to 14 months thereafter with the level only increased with the agreement of the Environmental Health Officer at the Licensing Authority.
4. A Complaints Record shall be maintained at the Premises. This should record details of any complaint (relating to the use of the Premises for licensable activities) made to the Premises Licence Holder; its Management and/or to the DPS by any local resident or local business; a summary of the complaint and/or any formal response made, and shall be made available for inspection by an authorised Council officer or Police Officer on reasonable request.
5. Prior to any event taking place at the Premises involving licensable activities, a risk assessment shall be carried out by the DPS and/or her Event partners as to the nature of the proposed event; numbers and demographic of guests attending; staffing requirements with a view to ensuring the promotion of the Licensing Objective at the event.

Protection of children from harm

1. The Designated Premises Supervisor (DPS) shall ensure that all staff involved in the sale or supply of alcohol at the Premises receive an induction in the Responsible Sale of Alcohol procedures prior to undertaking the sale of alcohol, and refresher training at least every twelve months thereafter. This training will cover the terms of this Licence; "Challenge 25" and the measures in place at the Premises to protect children from harm. Training records shall be maintained and regularly reviewed by the DPS, and shall be made available to the Police and authorised Council Officers on reasonable request. The records shall be retained for at least twelve months.

Licensable Activities

The premises will be open to the public daily between 09:00 to 24:00.

Provision of Films

Every Day 11:00 to 23:00

Provision of Live Music

Every Day 11:00 to 23:30

Provision of Recorded Music

Every Day 11:00 to 23:30

Late Night Refreshment

Every Day 23:00 to 23:30

Supply of Alcohol

Every Day 10:00 to 23:30

SCHEDULE 3

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

Prominent and clear signs shall be placed on all exits from the Premises and in nearby car park area/grounds asking customers to respect the needs of local residents and depart from the Premises quickly and quietly.

Reasons for the Panel's decision

In reaching their decision the panel took into account the legislation, the statutory guidance, in particular paragraphs 2.3, 2.15, to 2.21 and the Council's own licensing policy.

The panel considered the written and oral representations of all parties as part of their deliberations.

The panel noted that there were no objections from Responsible Authorities.

The panel considered the Noise Impact report submitted by the applicant and the correspondence provided by Stuart Goodbun from the authorities own Control of Pollution team. The panel also considered the locality of the Premises, the residents and the proximity of the M40 which provided a degree of background noise.

The panel felt that the application was well prepared and thorough. The Applicant appeared to be a responsible and professional organisation that had made genuine attempts to limit any potential impact that licensable activities would have to local residents. The panel was of the opinion that the Applicant would run the Premises in a professional manner.

The panel also felt that there is a significant distinction between the closing of a Public House with associated noise nuisance and a specialist venue with on-site staff to encourage guests to leave quietly. The panel found that there was no evidence to support the assertion that the closing time of the Premises would be on a par with the closing time of a regular public house. There was no evidence before the panel that there would be anti-social behaviour or noise nuisance at the terminal hour of midnight. The additional condition offer to erect signage at the Premises to remind guest to leave quietly advanced the directive of prevention of public nuisance to the panel's satisfaction.

The panel also acknowledged that the Applicant could not be held responsible for the conduct of guests once they had left the Premises and that there are further sanctions available to the Licensing Authority should noise nuisance become a problem.

The panel took 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 were sensitive to the need to balance the human rights of residents to respect for their private and family life and noted that the Applicant had invested a considerable amount of time and effort in renovating the Premises to a high standard with a view to reducing noise nuisance to a minimum by installing air conditioning and double glazing.

The panel considered that in all the circumstances, the granting of the licence with conditions agreed as a result of representations struck a balance between these competing rights and was reasonable and proportionate, sufficiently promoting the licensing objectives.

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

Signed: 

Clerk to the Committee

Date: 4th May 2021

