

LICENSING ACT 2003

Sections 17, 18(3), and (4), 19, 19A, 23(1)(a), (2) and (4) and Regulation 9 Licensing Act 2003 (Hearings) Regulations 2005/44

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

Premises: Under The Arches, Cornmarket, High Wycombe, HP11 2AY

To:

The Applicant: Mr. Riccardo Amabile

The Chief Constable - Thames Valley Police

Take Notice

THAT following a hearing of the Licensing Sub-Committee

ON 10th June 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 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 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 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 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 a licensing 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 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
 - 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 or whisky: 25ml or 35ml; and
 - iii. Still wine in a glass: 125 ml
- 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 that 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 –

$$P=D + (DxV)$$

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 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

Public safety

Any alcohol sold to be consumed off the premises and to be provided in re-useable glass containers.

Any alcohol served for the purpose of tasting to be contained in paper cups.

The premises will always have a viable first aid kit during licensing hours.

Prevention of Public Nuisance

That there be a litter pick within the vicinity of the Premises following termination hours of licensable activity.

The protection of children from harm

All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 21 years and who is seeking to purchase or consume alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo

SCHEDULE 3

Conditions necessary to promote the Licensing Objectives for the prevention of crime and disorder and agreed in response to representations made

Retail Sale of Alcohol (off sales only)	Tuesday	08:00 to 18:00
	Friday & Saturday	08:00 to 18:00
Hours open to the public	Tuesday	08:00 to 18:00
	Friday & Saturday	08:00 to 18:00

The application for an off-sales licence is granted with the following conditions.

1. No glass bottles containing alcohol shall be exposed to the public.
2. All wine containers kept at the Premises for the purpose of re-filling empty bottles provided by patrons shall be kept out of sight of the public.

Reasons for the Panel’s decision

1. Representations were made solely by Thames Valley Police in relation to the reduction of crime and disorder objective. This Responsible Authority was concerned about glass bottles being on display at the outdoor premises and their security. The objection was that given some itinerant members of the community frequented the market place, the exposure of wine in glass bottles could result in opportunistic “snatch and grab” thefts. The wine may then be drunk possibly causing anti-social behaviour or sold on to provide money for drugs. There was also concern that bottles might be broken during the course of an attempted theft which may be a danger to the public attending the market.
2. The Panel heard from the Applicant that he had had considerable experience in the trade for a number of years both in Italy and the UK and that he had never witnessed or had had to deal with attempted thefts. The Applicant stressed that the Premises was not a Bar but sold other Italian products such as fresh pasta, sauces and olive oil, the latter being sold in glass bottles. He was not going to expose glass wine bottles to the public. His wine selling business entailed re-filling empty bottles brought by customers with wine that he would keep in a box until sold. The Applicant would then pump wine into the empty bottles.
3. The Applicant asserted that he had previously carried on this trade under Temporary Event Notices and that he had experienced no trouble. The Licensing Officer confirmed that six TENS had been applied for by the Applicant.
4. The Panel felt that the Applicant had demonstrated responsible behaviour while operating TENS. That the Applicant’s business was not a bar and that re-cycling of bottles was beneficial. Above all, the panel felt that the Police concerns as to the security of glass bottles had been addressed when the Applicant confirmed that no glass wine bottles would be

exposed to the public. The Panel also felt that it was in the Applicant's best interests not have glass wine bottles on open display because his business rested on selling quality wine and so needed to ensure as far as possible the security of the products being sold.

In reaching their decision the panel took into account the agreement reached between the Applicant and the Responsible Authority regarding the conditions which were to be included on the licence to meet concerns in respect of the licensing objective of the reduction of crime and disorder. The panel noted that the conditions offered by the Applicant went a long way to address the representations made by the Police.

The panel agreed that in all the circumstances the conditions were appropriate and proportionate in promoting the licensing objective.

The panel noted that there had been no representations from other Relevant Authorities.

In making their decision, the panel also took into account the legislation, the statutory guidance and the Council's own licensing policy.

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.

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.



Clerk to the Licensing Sub-Committee

Date: 15th June 2021