

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: The Eagle, 145 High Street, Amersham, HP7 0DY

To:

The Applicant – Punch Partnerships (PTL) Limited
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 hearing of the Licensing Sub-Committee

ON 6th January 2022

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 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, or
 - b. an ultraviolet feature.

Mandatory Condition 4

The responsible person must ensure that:-

- a. where any of the following alcoholic drinks is 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 whiskey: 25 ml or 35 ml; 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 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 - all other permitted licensable activities to remain as per current licence

Sale by retail of alcohol

Monday to Thursday 11:00 - 23:00

Friday to Saturday 11:00 - 00:00

Sunday 12:00 - 22:30

Non-Standard timings:

A further additional hour into the terminal hour on – Friday, Saturday, Sunday, Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday, August Bank Holiday, Easter Bank Holiday, Thursday before Good Friday, Christmas Eve and Boxing Day.

New Year's Eve – From the end of permitted hours on New Year's to the start of permitted hours on New Year's Day.

Opening Hours

Monday to Thursday 08:00 - 23:30

Friday to Saturday 08:00 - 00:30

Sunday 09:00 - 23:00

Non-Standard timings:

A further additional hour into the terminal hour on – Friday, Saturday, Sunday, Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday, August Bank Holiday, Easter Bank Holiday, Thursday before Good Friday, Christmas Eve and Boxing Day.

New Year's Eve – From the end of permitted hours on New Year's to the start of permitted hours on New Year's Day.

SCHEDULE 3

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

The Prevention of Public Nuisance

- The sale of alcohol from the external bar servery shall cease at 10.00 pm.
- The outside gate connecting the garden of the licensed premises onto the green recreational space known as Barn Meadow will be locked at 10.00 pm.

SCHEDULE 4

Plans

The plan of the licensable area is amended in accordance with drawing number 7837-LC dated 28.09.2021. Please note that the amendments to the licensing plan are not to take effect until the works are complete and the Licensing Authority are notified.

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered all the written representations from Interested Parties together with oral submissions from the Applicant's representative made at the hearing.

The Panel noted that there had been no representations from the Chief of Police in respect of the licensing objective of Prevention of Crime and Disorder and that, following amendment to the original application, in response to representations made by the Environmental Health Department in respect of the licensing objective of Prevention of Public Nuisance, it was no longer raising an objection.

The Panel noted that the Applicant had recognised the concerns raised by the Interested Parties in respect of the licensing objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance and had further modified the application prior to the hearing to address those concerns. In addition, during the hearing the Applicant had agreed to additional conditions as set out in Schedule 3, to further alleviate such concerns and to ensure that the application did not undermine the licensing objectives

Whilst sympathetic to the Interested Parties, the Panel was conscious that it could not make assumptions as to any potential impact the requested variations might have but must reach a decision based on the evidence before it. No evidence was presented to show that the variation requested would undermine the licensing objectives. On the balance of probabilities, the Panel was satisfied that granting the variation in the form of the amended application with the additional conditions, would not undermine the licensing objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

The Panel noted that the condition on the current licence stating, "Live amplified or acoustic music consisting of not more than two performers may be performed outdoors at the premises between the hours of 11.00 a.m. to 10.00 p.m. each day" was no longer enforceable following deregulation of Live Music in 2012 and agreed to its removal from the premises licence.

The Panel also agreed that the licence plan shall be amended in accordance with drawing number 7837-LC dated 28.09.2021 which was attached to the application for variation, in light of the additional conditions which had been agreed by the Applicant. The Panel noted that this amendment shall not take effect until the works are complete and the Licensing Authority are notified.

The Panel considered the legislation, the statutory guidance, and the Chiltern District Area Licensing Policy.

The Panel took account of 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 all the circumstances, the existing and proposed conditions offered by the Applicant were reasonable and proportionate, sufficiently promoting the licensing objectives of the Prevention of Public Nuisance, the Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm.

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 stylized, cursive script.

Clerk to the Licensing Sub-Committee

Date: 12th January 2021