

LICENSING ACT 2003

Sections 17, 18, 19, 19A and 23(1)(a), (2) and (4) and Licensing Act 2003 (Hearings) Regulations 2005/44 and Licensing Act 2003 (Hearings) Amendment Regulations 2005/78.

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

PREMISES: Ask Food & Wine , 7-9 Kingsbury Square, Aylesbury HP20 2JA

To:

The Applicant
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 27th January 2022

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)

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 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 –

$$P=D + (DxV)$$

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 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)

Sunday – Thursday	08:00 – 21:00
Friday – Saturday	08:00 – 22:00

Hours premises are open to the public

Sunday – Thursday 08:00 – 21:00

Friday – Saturday 08:00 – 22:00

The prevention of crime and disorder

- All invoices/receipts for purchases of alcohol and tobacco purchased in the preceding 12 months will be kept at the premises and be available for inspection upon request of an authorised officer.

The prevention of public nuisance

- A clear notice shall be displayed at every exit from the premises to instruct customers to respect the needs of local residents and leave the premises and the area quietly.

The protection of children from harm

- A challenge 25 policy shall be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises.
- The only acceptable ID shall be those with photographic identification documents: passport, photo-card, driving licence or proof of age card bearing the PASS hologram.
- An incident log shall be kept at the premises, and made available for inspection on request by an authorised officer of the council and the police which shall record the following; a) All crimes reported at the venue b) Any complaints received, any faults in the CCTV system c) Any visit by a relevant authority d) CAD reference number where police are called.

SCHEDULE 3

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

The prevention of crime and disorder

- A closed circuit television system (CCTV) shall be maintained in all internal areas of the premises where alcohol is kept for selection and purchase by the public as well as all public entrances and exits.
- The system shall be capable of recording images of sufficient quality to enable facial recognition and shall record continuously with a date and time stamp applied to the recording to show when the recording was made. All recordings shall be retained for a period of no less than 31 days from the date of recording and the system shall be capable of producing copies of the recordings in a format that can be viewed on domestic-grade reproduction equipment of a computer.

- A staff member from the premises who is trained and conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the minimum of delay when requested, subject to the tests contained within the Data Protection Act.
- There shall be signs displayed in the customer area to advise that CCTV is in operation.
- In the event the CCTV system does not work for any reason, sales of alcohol shall cease.
- No single cans or bottles of beer, lager or cider will be sold. Sales of cans or bottles of beer, lager or cider shall be restricted to a minimum of four containers.
- No beer, lager or cider with an Alcohol By Volume (ABV) of 7.5% ABV or higher shall be sold at the premises.
- Alcohol shall not be sold to any person who is reasonably expected to consume it on the street in the vicinity of the premises.
- Alcohol shall not be sold to customers in an open container.
- All alcohol offered for sale from the premises shall be labelled with a sticker bearing the shop name.
- Staff engaged in the service of customers at the premises shall be trained in the promotion of the licensing objectives as are relevant to their duties. This shall include training on awareness of local alcohol related issues. The training shall be recorded in a training record which shall not be removed from the premises, except in case of emergency or for the purposes of copying, until a period of 12 months has expired since the last entry that has been recorded. The training record shall be made available to Police and authorised council officers on request.
- All staff shall receive documented refresher training at least every 6 months in relation to the promotion of the licensing objectives. The documentation shall include the content of the training with details confirming the name of the trainer and names of the staff undertaking the training.
- A log of refusals to sell alcohol shall be maintained at the premises and include a record of refusals of persons known to consume alcohol in breach of the local PSPO. The register shall be retained for inspection at the premises whilst it is open for licensable activities for a period of no less than 6 months from the date of the last entry in the register being made.
- A Personal Licence Holder will be on the premises at all times.
- A minimum of two members of staff, to include a Personal Licence Holder, shall be present at the premises from 20:00 until the close of business on Fridays and Saturdays.

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered all the written representations together with oral submissions made at the hearing.

The Panel noted that the Applicant had recognised the concerns raised by Thames Valley Police, the Licensing Authority and the Interested Parties in respect of the licensing objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance

and had amended the application prior to the hearing to address those concerns. In addition, during the hearing the Applicant agreed to additional conditions as set out in Schedule 3, to further address such concerns and to ensure that the application did not undermine the licensing objectives. On the balance of probabilities, the Panel was satisfied that granting the application 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 Licensing Panel took note of paragraph 14.19 of the Section 182 Guidance which considers the difference between the “need” and the “cumulative impact” of licensed premises and states, “Need concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions ...”. In accordance with the Guidance the Panel were unable to take this point into consideration in reaching their decision.

Whilst sympathetic to the Interested Parties, the Panel was aware that it could not make assumptions as to any potential impact the requested application might have in relation to the licensing objectives of Prevention of Crime and Disorder and Public Nuisance but must reach a decision based on the evidence before it. As the premises had not previously traded with a premises licence there was no evidence which could be presented to show that granting the application would undermine the licensing objectives. The Panel noted that the Licensing Act 2003 provides alternative mechanisms for dealing with issues where a premises licence breaches the licensing objectives.

In making their decision, the panel also considered the legislation, the statutory guidance and the Council’s own licensing policy.

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 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.

INFORMATIVE: The Panel noted that should issues of Public Nuisance and/or Crime and Disorder occur following the grant of the premises licence 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 stylized initial 'J' followed by a horizontal line.

Clerk to the Licensing Sub-Committee

Date: 2nd February 2022