

SUBJECT:	APPLICATION FOR A PREMISES LICENCE at: Chiltern View Garden Centre, Wendover Road, Stoke Mandeville, Bucks HP22 5GX
REPORT OF:	Application under section 17, Licensing Act 2003
Responsible Officer	Simon Gallacher – Principal Licensing Officer
Report Author	Simon Gallacher – Principal Licensing Officer
Ward/s Affected	Wendover, Halton & Stoke Mandeville

1. Purpose of Report

To provide Members with information enabling the determination of an application for a new Premises Licence, in respect of which relevant representations have been received.

The Application has been submitted by SG Licensing on behalf of their client Chiltern View Events Limited (“the applicant”) in respect of Chiltern View Garden Centre, Wendover Road, Stoke Mandeville, Bucks HP22 5GX (“the premises”).

2. Background

Chiltern View Garden Centre trades as a garden centre and sits on the west side of the Wendover Road between Stoke Mandeville and Wendover. The premises is immediately surrounded by a mix of open fields and commercial units. On the east side of Wendover road, immediately opposite the premises, are residential dwellings surrounded by open fields. The premises has an onsite shop, and café, from where the sale of is to take place. The applicant is also seeking to hold events in the grounds of the premises such as ice skating and would like to utilise mobile bars for such events within the grounds of the property.

The premises hosted an ice rink within its grounds between November 2021 and January 2022 with accompanying entertainment. Licensable activities were provided by way of a series of Temporary Event Notices as follows:

Nature of the Event	Date	Activity	Times
Ice skating (499 persons max)	25/11/21-01/12/21	Sale of Alcohol (on premises)	12:00 – 22:00 7 days

		Regulated entertainment	
Ice skating (499 persons max)	03/12/2021-09/12/2021	Sale of Alcohol (on premises) Regulated entertainment	12:00 – 22:00 6 days
Ice skating (499 persons max)	17/12/2021 – 19/12/21	Sale of Alcohol (on premises) Regulated entertainment	12:00 – 22:00 3 days
Ice skating (499 persons max)	22/12/2021 – 24/12/21	Sale of Alcohol (on premises) Regulated entertainment	12:00 – 20:00 3 days
Ice skating (499 persons max)	31/12/21	Sale of Alcohol (on premises) Regulated entertainment	12:00-23:00 1 day
Ice skating (499 persons max)	02/01/22 – 08/01/22	Sale of Alcohol (on premises) Regulated entertainment	12:00-22:00 7 days

A location plan is attached to this report marked **Appendix 1**.

3. The Application

- 3.1 This application is for a new Premises Licence to authorise the sale of alcohol for consumption on and off the premises. A copy of the application is attached to this report marked **Appendix 2**.
- 3.2 Three plans of the intended licensed area have been provided and are attached, marked **Appendix 3**. The first plan shows the full boundary of the premises site and shows the licensed area as the same as the boundary limits, as marked in red. The second plan shows the café area. The third plan shows the farm shop. The plans do not show any physical details relating to licensable activities in the outside area, should the licence be granted a further variation application may be needed in order to comply with the licence plan regulations under the Licensing Act 2003. Specifically, under the regulations, plans are required to show the matters listed below, should alterations to licence area affect any of the following then generally a variation of the licence will be required:
- a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - (b) the location of points of access to and egress from the premises;
 - (c) if different from sub-paragraph (3)(b), the location of escape routes from the premises;
 - (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
 - (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;

- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (j) the location of a kitchen, if any, on the premises.

3.5 The licensable activities sought are as follows

Proposed activity	Proposed hours
Sale of Alcohol (Both on and off the premises)	Mondays to Sundays 0900 - 2300
Opening Hours	Mondays to Sundays 0900 - 2330

4. Relevant Representations

4.1 Responsible Authorities:

- 4.1.1 **The Chief Officer of Police:** Response received: No objection.
- 4.1.2 **The Fire and Rescue Authority:** Response received: No representation.
- 4.1.3 **The Local Planning Authority (Head of Sustainable Development):** No Response received
- 4.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** No response received to the application
- 4.1.5 **Weights and Measures Authority (Trading Standards Officer):**
No response received.
- 4.1.6 **The Safeguarding and Child Protection Unit:**
No response received.
- 4.1.6 **The Licensing Authority:** Response received: representation. **See appendix 4.**

4.2 No representations were received from other parties during the 28-day consultation period.

4.3 The Relevant Representations received relates to the promotion of all four licensing objectives. The Licensing Authority has recommended that two additional conditions be applied to the licence as follows:

1. The premises licence holder shall ensure that an incident log is kept at the premises. The logbook should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police.
2. All outdoor events to which this licence relates shall not take place for the year in question unless:
 - At least 3 months' notice of the event must be given to the licensing Authority, Thames Valley Police and Environmental Health in writing;
 - The final Event Management plan must be agreed by the Licensing Authority, Thames Valley Police and Environmental Health 28 days before the event;
 - The Licensee shall ensure that the premises site is operated at all times in accordance with the Event Management Plan approved for that event.

4.4 In addition to the Mandatory Conditions, the Licensing Sub-Committee should consider those conditions offered in the applicants operating schedule (Appendix 2 Section M Licensing Objectives) and decide whether they are appropriate for the promotion of the licensing objectives and address any valid representations made.

5. Relevant Policy Considerations

5.1 Regard must be given to the Council's Statement of Licensing Policy (published 4th March 2022), "Policy", when determining this application. Of particular relevance (but not limited to) are the sections relating to licence conditions (page 25) and large events (page 46-47).

5.2 In relation to licence conditions, the policy confirms that any conditions should be proportionate and appropriate to both the specific premises and the proposed activities. The applicant is responsible for demonstrating, through their operating schedule, how they intend to uphold the licensing objectives and prevent any harm, crime or disorder through the operation of their business.

5.3 In relation to large events, the Policy defines large events as one-off events which have the potential for significant public nuisance, increased risk of crime and disorder and which carry significant risk to public safety. Large events are not necessarily defined by the number of people attending. The Policy confirms at 3.64 that organiser of large events should be encouraged to make early contact with Buckinghamshire Council's Safety Advisory Group (SAG). The SAG is made up of representatives from the emergency services and other agencies concerned with event safety. Some members of SAG are also 'Responsible Authorities' under the Licensing Act 2003, including the Licensing Authority, Thames Valley Police and Environmental Health Service. Under the Policy, organisers of large events are expected to make contact with the SAG at least 6 months in advance. Given the complexity of large events it is normal practice for event organisers to prepare an Event Management Plan, "EMP". The Policy at 3.65 sets a comprehensive list of recommended matters to be included in an EMP. The Policy at

3.66 explains that for a premises licence application the EMP can be the operating schedule.

6. Resources, Risk and Other Implications

6.1 **Resource:** The only resource implications to date have been officer time however if the applicant or persons making relevant representations appeal against the decision of the Licensing Sub-Committee this would result in legal fees to defend the appeal and further costs. In the event of a successful appeal the Council may also have to pay the applicant/other party's costs.

Human Rights:

6.2. The Panel should consider its responsibilities under the Human Rights Act when considering the fair balance between the interests of the applicant and the rights of local residents. Any decision taken must be appropriate and proportionate to the objective being pursued. In particular, the following should be taken onto consideration: Article 6 - the right to a fair hearing Article 8 - respect for private and family life Article 1, First Protocol - peaceful enjoyment of possessions (which can include the possession of a licence).

6.3. Interference with these rights is acceptable within the terms of the Human Rights Act 1998 if it safeguards the rights of others, is legitimate, proportionate and balanced in that there is a need to find a fair balance between the protection of individual rights and the interests of the community at large – other than rights under Article 6 and 14 which are absolute rights and cannot be interfered with.

6.4. Therefore, if Members refuse to grant the application for a new Premises Licence in whole or part or grant it subject to conditions, this will be a breach of the rights of the Applicant unless such refusal (in full or part) is, and/or the conditions imposed are, appropriate, proportionate and can be justified, on balance, by being outweighed by the rights of the community at large to peaceful enjoyment of their property/possessions. Any restriction placed upon the Premises Licence must not go beyond what is strictly necessary to achieve its legitimate purpose in order to mitigate the interference with the community at large's enjoyment of their property/possessions.

6.5. By taking into consideration all the material considerations relating to this application and balancing the interests/rights of all parties involved it is considered that the Licensing Sub-Committee's decision will be both proportionate and justified having had regard to the Human Rights Act 1998.

6.7 The Equality Act 2010, including the Council's Public Sector Equality Duty, must be taken into account when making decisions in relation to licensing applications.

7. Determination by the Licensing Sub-Committee

7.1 The Sub Committee is obliged to determine applications in the light of the above and any other material considerations with a view to promoting the four licensing objectives, which are:

- The prevention of crime and disorder

- Public safety
- Prevention of public nuisance
- Protection of children from harm

Regard must also be had to the Council's Licensing Policy, Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended, relevant representations received, and the evidence presented at the Hearing.

- 7.2 Each application must be considered on its own merits and any conditions attached to premises licences must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to promote the licensing objectives in any individual case.
- 7.3 The Sub-Committee must avoid duplication of other legal requirements and should only impose conditions on a premises licence which are appropriate and proportionate for the promotion of the licensing objectives and where additional and/or supplementary measures are required in order to promote the licensing objectives.
- 7.4 The following options are available to the Licensing Sub Committee in determining the application:
- 7.4.1. Grant the Premises Licence -subject to any conditions which are consistent with the Operating Schedule and which are considered appropriate and proportionate for the promotion of the four licensing objectives in response to relevant representations received - and any relevant mandatory conditions.
 - 7.4.2 Exclude from the scope of the Premises Licence granted any of the requested licensable activities to which the application relates.
 - 7.4.3. Refuse to specify a person in the Premises Licence as the premises supervisor.
 - 7.4.4 Reject the whole of the Application
 - 7.4.5. Grant the Premises Licence subject to different conditions for different parts of the premises or for different /reduced licensable activities if it is considered appropriate and proportionate to promote the four licensing objectives and in response to the representations received.
- 7.5 The Sub-Committee is asked to note that it may not reject the whole or part of the application or attach conditions - merely because it considers it desirable to do so. It must actually be **appropriate and proportionate** in order to promote the 4 licensing objectives and be in response to the representations received and full reasons must be given for the Sub-Committees decision.

8. Conditions

THE SCHEDULE

For the purposes of this schedule;

"the Act" means the Licensing Act 2003;

"Anti-Social Behaviour" has the meaning given in section 36 of the Anti-social Behaviour Act 2003;

"Disability" has the meaning given in section 1 of the Disability Discrimination Act 1995;

"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).

Mandatory Condition - 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 authorised by a person who holds a personal licence

Mandatory Condition - s21 of the Licensing Act 2003 - Door Supervision

Where a condition of this licence requires one or more individuals to be present to carry out a security

activity (as defined by the Private Security Industry Act 2001 as amended from time to time) must be

licensed with the Security Industry Authority.

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010 AS AMENDED BY THE LICENSING ACT 2003 (MANDATORY LICENSING 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 antisocial 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 other 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 such older age as may be specified in the policy) to produce on request, before being served

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: " pint; .

(ii) gin, rum, vodka or whisky: 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."

"An activity which is not prohibited by paragraph 1(2)(b) of the Schedule to the 2010 Order, as it was in force immediately before the coming into force of this Order, because it related to alcohol consumed at a table meal (as defined in section 159 of the 2003 Act), will continue not to be prohibited provided certain conditions are met; these are that the activity is available only to an individual who holds a ticket or other written invitation in respect of that activity which was purchased by, or given to, that individual on or before 30th September 2014, and the activity takes place on or before 5th April 2015."

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2013 (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 were 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.

Informative/s -

Officer Contact:	Simon Gallacher (01296 585 605) Simon.gallacher@buckinghamshire.gov.uk
Background Papers:	Application Ref PR202205-271561 Licensing Act 2003, as amended Licensing Policy – As adopted March 2022. Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended.