

LICENSING ACT 2003

Sections 17, 18, 19, 19A and 23 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: 11 HILL AVENUE, AMERSHAM, BUCKINGHAMSHIRE HP6 5BD

To:

The Applicant – Luljeta Semanaj
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 3RD AUGUST 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, 3 and 4 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, 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 –
$$P=D + (DxV)$$
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 offered up by the Applicant as part of the Operating Schedule

Opening Hours

Monday	07:00 – 23:00
Tuesday	07:00 – 23:00
Wednesday	07:00 – 23:00
Thursday	07:00 – 23:00
Friday	07:00 – 23:30
Saturday	07:00 – 23:30
Sunday	09:00 – 22:30

Non-standard timings: New Year's Eve from the end of normal permitted hours to 01:00
New Year's Day

Other Entertainment of a similar description to live music, recorded music or performance of a dance

Monday	10:00 – 22:00
Tuesday	10:00 – 22:00
Wednesday	10:00 – 22:00
Thursday	10:00 – 22:00
Friday	10:00 – 22:00
Saturday	10:00 – 22:00
Sunday	10:00 – 22:00

The Prevention of Crime and Disorder

- The premises shall install and maintain a comprehensive CCTV system in accordance with any minimum requirements of Thames Valley Police.
 - a. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - b. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
 - c. All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - d. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
- An incident log shall be kept at the premises and made available on request to an authorised officer of Buckinghamshire Council or Thames Valley Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) All crimes reported to the venue

- (b) All ejections of patrons
- (c) Any complaints received concerning crime and disorder
- (d) Any incidents of disorder
- (e) All seizures of drugs or offensive weapons
- (f) Any faults in the CCTV system, searching equipment or scanning equipment
- (g) Any refusal of the sale of alcohol
- (h) Any visit by a relevant authority or emergency service.

Public Safety

- Appropriate fire extinguishers will be installed at appropriate parts of the premises.
- An integrated fire alarm system will be installed at the premises.

The Prevention of Public Nuisance

- Notices, at least in A4 size, shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- Soundproofing measures will be in place ensuring that no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which would give rise to a statutory noise nuisance as determined by the local authority Environmental Health Officers.
- The number of customers using the outdoor area will be restricted to the number of seats available, save entry and egress of customers from the premises
- There shall not be any outdoor seating at the rear of the premises.
- The licence holder shall have a system in place to regularly monitor the use of outside areas by customers to ensure public nuisance is not caused to nearby residents.
- Outside lighting shall not cause a disturbance to nearby residents.
- Suitable waste receptacles shall be made available for use by staff and customers.
- The outside area shall be thoroughly cleaned at the end of each that it is in use.

The Protection of Children from Harm

- A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- All staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons and the Challenge 25 scheme in operation. A record of such training shall be kept at the premises at all times, and shall include: the date the training was given; the name of the person who gave the training, and the signatures of both trainer and trainee. The training records shall be made immediately available for inspection to an authorised officer or Police Officer on request.
- Clear legible signs shall be prominently displayed stating that a Challenge 25 policy is in operation

SCHEDULE 3

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

Supply of Alcohol (On and Off the Premises)

Monday	12:00 – 22:30
Tuesday	12:00 – 22:30
Wednesday	12:00 – 22:30
Thursday	12:00 – 22:30
Friday	12:00 – 23:00
Saturday	12:00 – 23:00
Sunday	12:00 – 22:00

Non-standard timings: New Year's Eve from the end of normal permitted hours to 01:00
New Year's Day

Prevention of Public Nuisance

- All tables and chairs will be removed from the outside area at the front of the premises, or rendered unusable when the premises are closed to the public.
- All windows and external doors shall be kept closed for the last 30 minutes that the premises are open to the public, except for the immediate access and egress of persons.
- Customers shall not be permitted to use the outside area 30 minutes before the premises are closed to the public.

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered the written representations and oral submissions made by the Interested Parties together with the representations made by the Applicant .

The Panel took account of the statutory guidance, in particular, paragraph 14.64 which states that planning and licensing regimes involve consideration of different matters and in reaching their decision concentrated on the four licensing objectives of prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Panel noted that the Fire and Rescue Authority, as the experts in fire safety had not made any representations in respect of this application.

In reviewing the application and the conditions offered by the Applicant in response to the objections raised by the Interested Parties, the Panel considered the statutory guidance, in particular paragraphs 2.17 - 2.19 and the Council's own Licensing Policy, paragraphs 3.11 and 3.36 and 3.37. Whilst the Panel noted that Environmental Health, as the responsible authority for issues around noise pollution had not raised any objection to the application, taking account of the proximity of the residential properties which are situated immediately above the premises, the Panel felt it was necessary to impose additional conditions and reduce the terminal hour for the sale of alcohol and the use of the outside area to promote the licensing objective of the prevention of public nuisance. In doing so the Panel sought to strike a balance between the rights of the applicant to a premises licence and the rights of the Interested Parties to the quiet enjoyment of their homes.

In all the circumstances, the Panel considered that the conditions offered and the imposition of the restrictions on the terminal hour for the sale of alcohol and the use of the outside space are reasonable and proportionate and sufficiently promote the licensing objectives of prevention of crime and disorder, prevention of public nuisance, the protection of children from harm and public safety.

Finally, 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.

INFORMATIVE: The Panel noted that should issues relating to the Prevention of Public Nuisance occur following the grant of the premises licence any party is able to request 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.

S. Phillips

Clerk to the Licensing Sub-Committee

Date: 09 August 2022