

LICENSING ACT 2003

Sections 17, 18, 19, 19A, 20 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:

To:

The Applicant -West Wycombe Caves Ltd. (trading As The Hellfire Caves)
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 8th November 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 and 2 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.

S20 of the Licensing Act 2003 – Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where -
 - a. the film classification body is not specified in the licence, or
 - b. the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “*children*” means persons aged under 18; and “*film classification body*” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

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

The Prevention of Crime and Disorder

- Customers shall not be allowed to bring their own alcohol onto the premises

The Prevention of Public Nuisance

- For booked and private events the Premises Licence Holder shall prepare in advance and implement a suitable travel plan appropriate to the scale of the event including details of timings, drop off and collection points. Such documentation shall be retained for a period of three months and made available to an authorised officer upon request.
- Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime
- Suitable litter bins shall be available throughout the premises. Staff shall carry out daily litter picks

The Protection of Children from Harm

- All staff shall receive annual safeguarding training and training records shall be kept on site and made available to an authorised officer upon request. All staff shall be subject to DBS checks on starting their initial employment to ensure the child protection objective is being promoted
- No children under 18 years of age shall be permitted on the premises unless accompanied by a person over 18 years of age.

SCHEDULE 3

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

Licensable Activities

Supply of Alcohol (on and off the premises)

| | |
|-----------|---------------|
| Monday | 11:00 – 17:30 |
| Tuesday | 11:00 – 17:30 |
| Wednesday | 11:00 – 17:30 |
| Thursday | 11:00 – 23:00 |
| Friday | 11:00 – 23:00 |
| Saturday | 11:00 – 23:00 |
| Sunday | 11:00 – 17:30 |

Exhibition of Films (Indoor)

| | |
|-----------|---------------|
| Monday | 11:00 – 17:30 |
| Tuesday | 11:00 – 17:30 |
| Wednesday | 11:00 – 17:30 |
| Thursday | 11:00 – 23:00 |
| Friday | 11:00 – 23:00 |
| Saturday | 11:00 – 23:00 |
| Sunday | 11:00 – 17:30 |

Hours premises are open to the public

| | |
|-----------|---------------|
| Monday | 11:00 – 17:30 |
| Tuesday | 11:00 – 17:30 |
| Wednesday | 11:00 – 17:30 |
| Thursday | 11:00 – 23:00 |
| Friday | 11:00 – 23:00 |
| Saturday | 11:00 – 23:00 |
| Sunday | 11:00 – 17:30 |

The Prevention of Crime and Disorder

- The Premises Licence Holder shall ensure that they maintain a digital CCTV system with cameras located within the premises to cover all public areas including entrances and exits and the till area and shall operate at all times the premises are open for licensable activities.
- The CCTV system shall record clear images allowing the identification of individuals and the equipment shall have accurate and constant date and time generation. All recorded footage shall be securely retained for a minimum of 31 days. There shall be on site at all times when the premises is open someone that can allow the immediate viewing of CCTV upon request of a Police Officer or an Officer of a Responsible Authority and be able to provide recorded images on removable media (DVD / USB) at that request or at least within 24 hours of that request providing the business is open for licensable activities. This request must be in line with Data Protection legislation (or similar if legislation changes). The provided images must be such that can be played on a standard desk top or laptop computer.
- The Designated Premises Supervisor shall provide a written "Risk Assessment" in relation to the need to employ Security Officers for any particular event that it holds. This Risk Assessment must be compatible with the event being held and must be available for inspection upon request of an officer of a Responsible Authority or a Police Officer.
- The premises shall have a "Refusals / Incident Log" that shall record all incidents that occur within the premises during licensable activities in relation to the Licensing Objectives. This log shall include: date, time, nature of incident / refusal, what action was taken to include detail of any identification provided or Police reference number (if reported) and staff member dealing. This log shall be available for inspection upon request of an Officer of a Responsible Authority or a Police Officer.
- All staff involved in the selling of alcohol based products shall be trained with regards to the Licensing Act covering topics of underage sales, Challenge 25, refusals of service and the completion of the Refusals / Incident log. This training shall be recorded in written records and shall be provided for inspection upon request from an Officer of a Responsible Authority or Police Officer. Training shall be updated a minimum of every six months.

The Prevention of Public Nuisance

- A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number shall be made available to residents and businesses in the vicinity upon request.
- A written complaints log shall be maintained at the premises to record any complaints made in relation to licensable activities. The log shall include date and

time received, details of the complaint, any actions taken and a record of the person receiving the complaint. The log shall be made available to authorised officers of Buckinghamshire Council on request and kept for a minimum of twelve months

- Notices shall be displayed at the exit to the premises requesting customers to respect the needs of local residents and leave the area quickly and quietly

Protection of Children from Harm

- When a film is being shown on the premises only those persons of an age reflecting the British Board of Film Classification (BBFC) for the film being shown will be admitted to the premises. Where the film carries a BBFC of over 18 years proof of identification will be required upon request in accordance with the Challenge 25 policy.
- 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.

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered the written representations and oral submissions from the Interested Parties together with oral submissions from the Applicant at the hearing.

The Panel noted that the Applicant had agreed revised conditions with Thames Valley Police and had considerably adjusted the requested hours for licensable activities in response to representations from the Interested Parties. The Panel were mindful that issues relating to public nuisance arising from potential noise disturbance are dealt with by other relevant legislation regulated by Environmental Health. It was also noted that the Environmental Health Authority, as the experts in the prevention of public nuisance in respect of noise complaints, had raised no objection to the application.

Whilst sympathetic to the Interested Parties, the Panel was conscious that it could only consider representations pertaining to the requested licensable activities, namely the supply of alcohol on the premises and the (indoor) exhibition of film and how this would impact on the licensing objectives.

In making their decision, the Panel also considered the legislation, the statutory guidance, in particular paragraph 2.21 ("Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law") and the Buckinghamshire Council Licensing Policy, in particular paragraph 3.11 (respect the rights of residents to peace and quiet) and 3.36 (whether measures proposed to deal with public nuisance are adequate).

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.

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: Should issues relating to the Prevention of Public Nuisance and/or Crime and Disorder occur following the grant of the premises licence any party may 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: 10 November 2022