

LICENSING ACT 2003

Sections 17, 18, 19, 19A, 21, 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: Buckinghamshire Oktoberfest, Burnham Park, Windsor Lane, Burnham, SL1 7HR

To:

The Applicant: Barbican Events 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 19th June 2023

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.

S21 of the Licensing Act 2003 – Door Supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - a. be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - b. be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed –
 - a. in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (premises with premises licences authorising plays or films), or
 - b. in respect of premises in relation to –
 - i. any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - ii. any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section –
 - a. “*security activity*” means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - b. paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

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 consistent with the Operating Schedule submitted by the Applicant

Licensable Activities

Supply of alcohol (Both on & off the premises)	Friday 16:00 - 22:30 Saturday 11:00 - 22:30 Sunday 12:00 – 20:00
Provision of Live Music (Indoor)	Friday 16:00 - 22:30 Saturday 11:00 - 22:30 Sunday 12:00 - 20:00
Playing of Recorded Music (Indoor)	Friday 16:00 - 22:30 Saturday 11:00 - 22:30 Sunday 12:00 - 20:00
Hours premises are open to the public	Friday 16:00 - 22:30 Saturday 11:00 - 22:30 Sunday 12:00 - 20:00

The Prevention of Crime and Disorder

- The DPS shall be on site at all times when licensable activities are taking place.
- The DPS shall work closely with the head of security, the head steward and the bar manager to ensure the sale and consumption of alcohol is carried out safely.
- Body scans and bag checks shall be carried out upon entry to the site.
- Stewards wearing high visibility vests will be placed at entrances and exits to the site and the tent directing the flow of people and encouraging people to enter and leave quietly.
- SIA licensed security will be provided at a ratio of 75:1 (Attendees : Security) with 2 supervisors.
- Security staff shall be situated at all entrances and exits to the tent and to the site and shall patrol the grounds.

Public Safety

- Non-reserved seating shall be provided for 960 customers in the general admission area. Seating shall be allocated for 1060 to ensure there is no overcrowding.
- All alcohol and refreshments served on the premises shall be in vessels made from disposable plastic or toughened plastic.
- Two first aiders shall be on the premises at all times.
- All parts of the premises shall be adequately illuminated.

Prevention of Public Nuisance

- Any persons leaving the premises shall be reminded to conduct themselves in an orderly manner and not in any way cause annoyance to residents or persons passing by.
- The tent shall be situated at the furthest point away from any neighbours on the site , away from commercial and residential properties.

Protection of Children From Harm

- No persons under the age of 18 years shall be admitted to the event.
4. 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.

SCHEDULE 3

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

The Prevention of Public Nuisance

- Each patron shall not be permitted to leave the premises with any open vessel unless in a single disposable container (that shall not be plastic or glass).
- The dates of any event will be notified to the Licensing Authority at least three months prior to the event or a lesser period as agreed by the Licensing Authority.

- The Premises Licence Holder shall present the Event Management Plan (upon request) to authorised officers at least 28 days before the first event day. The Event Management Plan shall include but not limited to the following:-
 - a. Nature & style of the event, including crowd profile
 - b. Capacity and expected audience
 - c. Event programme & advertising
 - d. Communication strategy
 - e. Site and location plans
 - f. Management structure
 - g. Special effects
 - h. Campsite safety and security (when on site)
 - i. Emergency evacuation plan
 - j. Medical plan
 - k. Information and welfare
 - l. Safeguarding children and young people and age controls
 - m. Transport and traffic management plans
 - n. Food, drink and water provision
 - o. Waste management
 - p. Working at height
 - q. Animal welfare
 - r. Noise management planning and controls
 - s. Temporary demountable structures
 - t. Fire risk assessment
 - u. Electrical safety
 - v. Welfare and sanitation plan
 - w. Extreme weather and contingency plans
 - x. Waste management
 - y. Crowd management
 - z. Emergency procedures
 - aa. Barriers and fencing
 - bb. Entry search and eviction policy
 - cc. Alcohol and drugs policy
 - dd. Counter terrorism
- So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered the written representations and oral submissions from the Relevant Authorities and the Person who made Relevant Representations together with the oral submissions made by the Applicant at the hearing.

In making their decision, the Panel took into account the legislation, the statutory guidance in particular paragraphs 2.16 to 2.18 and paragraph 2.21 in respect of public nuisance. In addition, the Panel considered the Council's own licensing policy in particular paragraphs 3.35 to 3.37 regarding public nuisance.

The Panel was sympathetic to the objection raised by the Person who made Relevant Representations in relation to the licensing objective of public nuisance, however they took into account the fact that that the Police, as the experts in the prevention of crime and disorder and 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. Nonetheless, the Panel noted that the Applicant, as part of their noise management plan, had agreed to conduct sound check levels near the home of the Person who made Relevant Representations.

The Panel noted that the Applicant had consulted with the Safety Advisory Group (as recommended in paragraph 3.65 of the Council's Licensing Policy) and had agreed to conditions proposed by the Licensing Authority including prior notify to the Licensing Authority of the date of proposed events up to 3 months in advance and the presentation of an Event Management Plan. In addition, the Applicant had agreed to limit the removal of open drinking vessels to one vessel per customer.

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.

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 blue ink, consisting of a stylized initial 'J' followed by a horizontal line.

Clerk to the Licensing Sub-Committee

Date: 22 June 2023