

LICENSING ACT 2003

Sections 34, 35, 36 and Sections 19, 19A and 21 and the Licensing Act 2003 (Hearings) Regulations 2005/44 and Licensing Act 2003 (Hearings) Amendment Regulations 2005/78

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

PREMISES: Ohana, 1-2 Burkes Court, Station Road, Beaconsfield HP9 1QR

To:

The Applicant: Halil Seker on behalf of Steak Shell Ltd
Any Persons who made Relevant Representations
The Chief Constable of Thames Valley Police

Take Notice

THAT following a hearing of the Licensing Sub-Committee

ON 12 March 2024

BUCKINGHAMSHIRE COUNCIL as the Licensing Authority for the Premises

HAS AGREED

TO GRANT A VARIATION OF 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 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.

Mandatory Condition – Section 21 of the Licensing Act 2003 – Door Supervision

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, the licence must include a condition that 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.

SCHEDULE 2

Conditions consistent with the Operating Schedule submitted by the Applicant - all other permitted licensable activities to remain as per current licence

Licensable Activities

<p>Sale by Retail of Alcohol (both on and off the premises)</p>	<p>Sunday – Thursday 11:00 hrs – 01:45 hrs</p> <p>Friday – Saturday 11:00 hrs – 02:45 hrs</p> <p>The supply of alcohol to cease on the ground floor Sunday to Thursday 00:00 hrs and Friday to Saturday 01:00 hrs and 01:00 hrs on any day preceding a bank holiday.</p> <p>On the first floor the sale of alcohol to cease at 02:45 hrs on any day preceding a bank holiday.</p>
<p>Late Night Refreshment (both on and off the premises)</p>	<p>Sunday – Thursday 23:00 hrs – 01:45 hrs</p> <p>Friday – Saturday 23:00 hrs – 02:45 hrs</p> <p>Late night refreshment to cease on the ground floor Sunday to Thursday 00:00 hrs and Friday to Saturday 01:00 hrs and 01:00 hrs on any day preceding a bank holiday.</p> <p>Late night refreshment to cease on the first floor at 02:45 hrs on any day preceding a bank holiday.</p>
<p>Opening Times</p>	<p>Sunday – Thursday 11:00 hrs – 02:00 hrs</p> <p>Friday – Saturday 11:00 hrs – 03:00 hrs</p> <p>The ground floor will close to the public Sunday to Thursday at 00:00 hrs and at 01:00 hrs on any day preceding a bank holiday.</p>

The first floor will close at 03:00 hrs on any day preceding a bank holiday.
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The Prevention of Public Nuisance:

- Annex 2, condition 8: The internal ground floor of the premises shall only operate as a restaurant where the supply of alcohol for consumption on the premises shall only be to a person seated taking a table meal, save for a maximum of 6 persons at the bar area.
- Annex 2, condition 15:
Delivery of alcohol will only be permitted when:
 - a) Accompanied by an order for a meal
 - b) Delivered to a verified or registered address occupied by the customer
 - c) Payment for off sales only to be accepted by means of card transaction or through bona fide on-line payment services prior to delivery. There shall be no cash payments on delivery.
 - d) Deliveries will cease at 23:00 hours
- Across the entire premises the volume levels of recorded music played will not exceed that of background levels.
- A noise management plan for the entire venue will be in place at all times and reviewed annually. A copy of the noise management plan will be held on the premises and made available to an authorised officer on request.
- Food will be available at all times the premises is open for licensable activity.
- Supply of alcohol for consumption on the premises in the exterior seating area will be by table service only, to a maximum of 24 persons.
- The ground floor outside area will be closed by 21:30 hours to minimise any disturbance.
- The first floor of the premises shall at all times be restricted to members (and their guests) only and operate as a bar/restaurant. As such, the following shall apply:
A membership scheme will be in existence for access to the first floor which shall record the following:
 - a) The name, address, email and contact telephone number of each member.
 - b) Membership details will be held on the premises and available at all times to an officer of the Council and Thames Valley Police.
 - c) Food will continue to be available at all times to members and their guests.

The Prevention of Crime and Disorder:

- When the premises is operating beyond 01:00 hours, a SIA licensed door supervisor shall be on duty at the premises from 22:00 hours to 15 minutes after close.

- The licensee/management shall record the full name, home address and contact telephone number, SIA registration number, and the time/date of employment of any door supervisor(s) employed at the premises. Where door supervisor(s) are provided by an agency the name, business address and contact telephone number will also be recorded.
- These records are to be maintained for no less than 12 months and will be made available to an authorised officer on request.

SCHEDULE 3

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

Prevention of Public Nuisance

- There shall be no vertical drinking on the ground floor internal or external save for 6 persons in the bar area.

Reasons for the Panel's Decision

In reaching their decision the Panel carefully considered the written representation from the Interested Party, together with written and oral submissions from the Applicant and Applicant's representative.

The Panel took account of the Buckinghamshire Council Alcohol and Entertainment Licensing Policy Statement including paragraphs 3.36 and 3.37 and the Section 182 Guidance including paragraphs 2.21; 2.22; 2.24 and 2.27. The Panel also took account of Paragraph 9.12 relating to Responsible Authorities and noted that no representations had been made by any Responsible Authorities.

The Panel considered the objection raised by the Interested Party, on the grounds of the Prevention of Public Nuisance. While sympathetic to the concern raised, no evidence was presented to show that, on the balance of probabilities, granting the variation of the premises licence would undermine the licensing objectives.

The Panel also 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 felt that the application was comprehensive and well considered and that the amended operating schedule and conditions offered by the Applicant were reasonable and

proportionate, sufficiently promoting the licensing objectives of prevention of crime and disorder, prevention of public nuisance, the protection of children from harm and public safety.

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.

Clerk to the Licensing Sub-Committee

Date: 14 March 2024

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