

Jane Bosworth

From: Christa Ferguson
Sent: 07 May 2020 13:58
To: SHAD MANNAN
Cc: Peter Donelan; Ben Stockley; Joanne McClay; Sarah Herringshaw; Licensing & Alcohol Harm Reduction Team Mailbox
Subject: India Cottage

Good afternoon Mr Mannan

Following your call to a Licensing Officer earlier today you seem to be unclear as to the arrangements and legislation that applies to all businesses at this current time. I do realise that these are difficult times for businesses and whilst there is scope for creativity, the law must be complied with at all times, unless secondary legislation is provided to amend the Licensing Act in part. Therefore as the Compliance officer has already discussed the legal operating requirements of your business under the current legislation with regard to Government instruction I have clarified the situation for your premises below.

As you have already been served with a Prohibition Notice by NFDC following a visit by Hampshire Licensing Police, I hope that this further clarification assists and ensures that you follow the legal requirements to prevent any further action being taken by authorities.

I believe that you referred to some sort of "relaxation" which you have seen, however I think you may be referring to the planning arrangements which will allow some businesses to provide a takeaway service. The link to the Gov.uk website is here

<https://www.gov.uk/government/news/government-to-grant-permission-for-pubs-and-restaurants-to-operate-as-takeaways-as-part-of-coronavirus-response>

But, as you can see, it does refer to alcohol sales as follows:-

"The measures will apply to hot food and drinks. Serving of alcoholic drinks will continue to be subject to existing licensing laws."

As the premises licence for India Cottage does not permit the sale of alcohol for consumption OFF the premises, customers may NOT purchase alcohol with their takeaway.

In addition, conditions placed on the licence at the hearing in February also preclude Off sales of alcohol, namely

"15. Alcohol must not be removed from the premises by customers". And

"18. Alcohol shall not be sold or supplied on the premises otherwise to persons taking table meals and for consumption by such a person as ancillary to their meal".

Although the licence permits Late Night refreshment up to midnight this is only for INSIDE, as condition 23 states *" All licensable activities must cease at 23:00 hours in the outdoor area of the premises....."* (Garden and huts).

In other words customers are only permitted inside the premises after 23.00, so they are not permitted to wait for the service of takeaway food in the outside area (as this is when the transaction takes place, not when it is paid over the phone).

You can of course deliver/provide a takeaway service all day before 23:00.

But between 23:00 to midnight, hot food may only be provided by way of delivery, or if customers wait inside to collect the takeaway, maintaining social distancing at all times. No alcoholic drink sales at all.

With regard to submitting a TEN to allow off sales the latest guidance from the Police is that TENs should not be submitted at this time and that if they do receive an application it is likely to receive an objection by the Police and in view of the recent hearing in February, any extension of licensable activities may also result in an objection by the Environmental Health Department.

I hope that this email provides the clarification as requested.

Regards

Christa Ferguson

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