

IN THE MATTER OF:

A PROPOSED PREMIER INN WITH BAR & BLOCK STEAKHOUSE RESTAURANT, 153 – 161 THE BROADWAY, WIMBLEDON SW19 1NE

HEARING: 26 MARCH 2018

WHITBREAD GROUP PLC

APPLICANT

SKELETON ARGUMENT ON BEHALF OF THE APPLICANT

1. This is an application for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for a proposed 176 room Premier Inn with a Bar & Block Steakhouse at the above location.
2. There is in existence a Premises Licence for part of this location in the name of Henry J Beans. We confirm that on the grant of a satisfactory Premises Licence for this proposed development, that Licence (which covers additional licensable activities and for longer hours than what is sought under this application) will be surrendered.
3. A hearing is required only as uncompromised representations have been received from a number of local residents.
4. The applicant is Whitbread Group Plc which operates some 760 licensed premises nationwide. These comprise either stand alone Premier Inn Hotels (of which there are some 360) or Premier Inn Hotels combined with a food lead bar and restaurant operation (of which against there are some 380). In this case, a Premier Inn hotel combined with a Bar & Block Steakhouse is proposed. Whitbread currently operate some 70,000 bedrooms nationally.
5. This development will represent a capitalised inward investment by Whitbread of some £25 - £30 million and will lead to the creation of some 60 full time and some 35 part time jobs, the majority of which will be recruited locally.

6. Whitbread are responsible and experienced operators of licensed premises (the majority in town or city centre locations) with robust systems in place for the exercise of due diligence to ensure their premises are properly and responsibly run in accordance with the law and to ensure the avoidance of the commission of regulatory offences and the possibility of public nuisance and / or crime and disorder in particular.
7. The nearest residents likely to be affected by the proposed development will be those residents who are staying in the proposed Premier Inn itself. Whitbread offer a "good night guarantee" to such customers under which a customer is refunded the cost of their accommodation if their night is disturbed. The amenity of their customers, and particularly hotel residents, is a paramount concern and priority. As a consequence, any impact on those residing further away is minimised or even eradicated.
8. As a development site, these premises have yet to be developed but upon completion and before opening, a Designated Premises Supervisor will be appointed, a Senior Manager of the premises with appropriate qualifications and all staff will be trained as part of Whitbread's national development programme.
9. What is proposed here will be a Premier Inn with a Bar & Block Steakhouse Bar Restaurant. The proposed layout for the Bar & Block (which is a relatively new brand) is typical for developments of this type and is a modernisation of and from the Whitbread Beefeater brand, of which there are over 140 nationally. The majority of the customers will be taking table meals with the premises laid out accordingly. It should be noted that all existing Bar & Block operations are trading satisfactorily and without issue and without undermining the licensing objectives. These include particular two such developments in highly sensitive locations being the Bar & Block within the Kings Cross Premier Inn (adjacent to Kings Cross Railway Station) and the Bar & Block within the Premier Inn at Birmingham New Street Station. Images of current Bar & Blocks, together with sample menus appear at Annex 1 to this Skeleton.
10. The Hotel accommodation will have its own dedicated Hotel reception at ground floor level with the Hotel accommodation on the upper floors, comprising in all, as indicated, some 176 rooms which will be unlicensed. The reception area is manned and supervised 24 hours a day. Contrary to what is suggested in the representations received, no off-sales are intended from the licensed part of the premises save for consumption by residents in their unlicensed bedrooms. This is "conditioned" within the application.
11. The food and beverage facility at ground floor level provides some 140 covers internally, with an overall occupancy of some 180 persons. Substantially the whole of the licensed area is given over to seated covers – as demonstrated on the deposited drawings. As will

be seen below, this is reinforced by the fact that additional conditions have been agreed with the Police to be imposed on any Licence granted that:-

There will be a minimum number of covers representing not less than 70% of the overall occupancy for the ground floor licensed food and beverage area.

12. No representations have been received from any Responsible Authority and particularly from the Police in connection with crime and disorder or public nuisance or Environmental Health in connection with possible noise nuisance.
13. Representations have been received from 4 local residents as appear at pages 39 – 47 of the Committee Report. No prior concerns were expressed to us in connection with the licensing application until receipt of the representations themselves following which, mediation was attempted with those making representations and the relevant e-mail exchange appears at pages 49 – 51 of the Committee Report.

The Licensing Objectives.

14. Central to the statutory regime for licensing are the four licensing objectives which are the only relevant areas for consideration in licensing applications. They are as follows:
 - Prevention of crime and disorder.
 - Public safety
 - Prevention of public nuisance.
 - Protection of children from harm.
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The Application Process

15. Section 17 sets out the procedure for making a Premises Licence Application and Section 18 sets out the provisions for determination of that application where representations have been made by the Responsible Authorities or other persons.
16. Section 18 provides that where an application for a new Licence is properly made, following receipt of relevant representations, the Licensing Authority must hold a hearing following which it may, if it thinks it is necessary, take one or more of the steps set out in Section 18(4) as follows :

(a) to grant the Licence subject to :-

- (i) the conditions mentioned in sub-section 2(a) modified to the extent the Authority considers appropriate for the promotion of the licensing objections; and
- (ii) any condition must under Section 19, 20 or 21 be included on the Licence.

(b) to exclude from the scope of the Licence any of the licensing activities to which the application relates.

(c) To refuse to specify a person on the Licence as Premises Supervisor.

(d) To reject the application.

Conditions

17. The general principles which govern the imposition of conditions upon Premises Licences may be summarised under 4 heads :-

- (1) A condition may only be attached to a Licence if it is appropriate for the promotion of one or more of the licensing objections.
- (2) A condition must not duplicate other statutory provisions.
- (3) The conditions must be proportionate.
- (4) In order to give rise to criminal liability a condition must be framed so as to give precision and clarity for definition in the prescribed Act.

18. Relevant extracts from the Guidance are as follows :-

- (1) Failure to comply with any condition attached to a Licence or Certificate is a criminal offence, which on conviction, is punishable by an unlimited fine or up to 6 months imprisonment. The Courts have made it clear that it is particularly important that the conditions which are imprecise or difficult for a licence holder to observe should be avoided (paragraph 10(2)).
- (2) The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied that as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions that promote one or more of the four licensing objectives (10.8).
- (3) It is possible that in certain cases where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives (10.9).

- (4) The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. **Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing Authorities and other Responsible Authorities should be alive to the indirect costs that can arise because of conditions Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives** [Our emphasis] (10.10).
- (5) The determination of the licensing committee must be evidence based on what is before them (9.43 and Daniel Thwaites PLC v Wirral Borough MC [2008] EWHC 838)
- (6) All Licence applications should be considered on a case by case basis (9.42).
- (7) Planning considerations are not relevant to a licensing determination, the regimes being separate and distinct (14.57).

The role of the Police

19. At paragraph 9.12 of the Guidance it is stated that in their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

It is of course the case that there has been no Police representations to this application. However, additional conditions have been agreed with the Police and the Applicant is content for these conditions to be imposed on any Licence granted.

(1) There shall be no overt external signage of the proposed Bar & Block Steakhouse unit save for one discreet sign adjacent to the entrance. Otherwise the building will be overtly signed as a Premier Inn.

(2) There will be a minimum number of covers representing not less than 70% of the overall occupancy for the ground floor licensed food and beverage area.

(3) Food and beverage provision will be substantially food lead and ancillary to the principal operation of the premises as a Hotel.

(4) No admission or re-admission at weekends after 11.00pm save for Hotel residents and their bona fide guests.

(5) A Personal Licence Holder shall be on duty after 7.00pm Thursday – Saturday whilst the premises are open to non-residents.

(6) CCTV to cover the lift lobby entrances on all floors and all entrance and exit points and the ground floor licensed area. There will be the usual retention for 28 / 31 days with images being made available upon proper request under data protection rules and when the premises are open to non-residents.

Residential Representations Received

20. As mentioned above, representations have been received from a number of local residents.

21. Insofar as there may be a suggestion that the use of these premises may lead to a potentially detrimental effect on the residential amenity of those in the vicinity with a perceived risk that this will result in a rise in anti-social behaviour and public nuisance as a result of the food and beverage facility at this location, no evidence appears to be offered or is available to support any such assertion.

22. This application limits licensable activity to non-residents to 23.00 Monday – Thursday and to 24.00 Friday – Sunday (in accordance with the Planning Permission) and which is significantly less than the normal terminal hour for developments similar to this across our client's estate and which is normally included for occasional flexibility. As mentioned above, there will be admission or re-admission at weekends after 23.00 save for Hotel residents and their bona fide guests. Off-sales are limited to residents wanting to take drinks from the licensed area into their unlicensed bedrooms.

23. As further mentioned, the Hotel reception area is manned 24 hours a day providing a degree of supervision of the overall premises throughout the day and night.

24. Although the local residents who have opposed the application have understandable anxieties, it is the view of the applicant that these anxieties are substantially unfounded (borne out by their experience at the many similar developments which they operate)

but in any event are mitigated by conditions offered within the application and those additional conditions agreed with the Police who have the principal responsibility in respect of control of crime and disorder and indeed public nuisance.

Merton Council Licensing Policy

25. The Statement of the Licensing Policy adopted by Merton Council is relevant:-

(a) Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore be in the direct control of the individual, Club or business holding the Licence, Certificate or authorisation concerned (3.5).

(b) Conditions will be only be attached to Licences if they are appropriate for the promotion of the licensing objectives and are proportionate. If a requirement is already imposed by other legislation, it would not generally be considered to be appropriate in the context of licensing law ... (3.11(2)).

(c) Cumulative Impact – it is acknowledged that this site falls within the Wimbledon Town Centre Cumulative Impact Zone. As a result, it will be for applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced ... Responsible Authorities and / or other persons will need to consider the steps proposed by the Applicant or to decide whether to submit representations. The effect of the Cumulative Impact Policy is to create a **rebuttable** presumption that applications for new Premises Licences or Club Premises Certificate or variations that are likely to add to the existing cumulative impact will normally be refused following relevant representations, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives ... (7.8).

(d) The presumption and refusal does not however relieve Responsible Authorities or other persons of the need to make a relevant representation ... Responsible Authorities, such as the Police or other persons, can make a written representation maintaining that it is appropriate to refuse the application in order to promote the licensing objectives. In doing so they may wish to refer to the special policy and, if appropriate, any other relevant information supporting the representation (7.9).

(e) This special policy is not absolute. The circumstances of each application will be considered on their own individual merits. Examples are given as to where an exception may

be made. It will be noted in terms of the above extracts that there are no Responsible Authority representations to what is proposed for this development.

26. In summary:

- a. The applicant is a well-known and respected operator of Hotel style premises all of which are licensed on a similar basis.
- b. The amenity of their own residents is of paramount importance and the management of the premises will be designed to ensure minimum impact upon those residents and indeed any other residents within the neighbourhood.
- c. No evidence is or can be put forward specific to this proposed development that problems and disturbance will indeed occur.
- d. No evidence is or can be advanced or is otherwise available that Whitbread are not a responsible operator or that they do not have in place effective and credible due diligence policies to ensure the proper management of their hotel premises.
- e. There is no evidence available to suggest that there is or will be a significant aggravated problem of crime and disorder or public nuisance in this area arising from this application sufficient to justify either the refusal of the Licence, the imposition of additional conditions not otherwise agreed or to curtail the hours of operation to a time earlier than that proposed for non-residents (as above) or that the development of a Premier Inn with a Bar & Block Steakhouse at this location will add to or aggravate any perceived problems which may exist.

John Gaunt & Partners

March 2018

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ANNEX 1



NIBBLES

- Artisan Breads** 3.00
Served with our special beef flavoured buttery spread
- Mixed Olives (v)** 3.00
A mix of kalamata, Sicilian nocellara and giant green olives
- Padron Peppers (v) NEW** 3.50
Blistered, salty Spanish green peppers

GRAZING PLATES

Designed to mix and match. We recommend three plates between two people to get you started.

- Asian Crispy Beef NEW** 5.50
Crispy pulled beef tossed in hoisin, cucumber, spring onion, chilli and coriander
- Salt & Pepper Squid** 6.50
Crispy salt & pepper squid mixed with chilli and parsley, served with garlic mayonnaise and a wedge of lemon
- Burnt Ends** 4.95
Spicy, caramelised and smoky beef brisket pieces
- Mac & Cheese Bites (v)** 3.75
Crispy mini fried mac and cheese bites
- Cheese & Jalapeño Stuffed Dippers (v)** 3.95
Dippers filled with cheese and jalapeño then fried and served with sour cream dip
- Garlic King Prawns*** 6.95
Cooked in white wine, garlic and butter, topped with a wedge of lemon
- Wild Mushrooms On Toast* (v)** 5.95
Mixed wild mushrooms cooked in a creamy, truffle infused shallot sauce, served on a slice of ciabatta and topped with a poached egg and tarragon
- Chicken Wings with Raspberry & TABASCO® Sauce** 5.50
Crispy chicken wings cooked over charcoal and coated with our special raspberry & TABASCO® sauce

SALADS

- Tandoori Cauliflower Salad (v) 600 NEW** 6.95 / 9.95
Tandoori charred cauliflower mixed with quinoa, soya beans, cannellini beans, kidney beans, brown rice, rocket, cherry tomatoes, lemon, olive oil and mint
- Crispy Beef Salad 600** 8.95 / 11.95
Crispy pulled beef tossed in teriyaki sauce and mixed with shredded carrot, lettuce, red peppers, cucumber, tomatoes, spring onion, sesame seeds, bean sprouts and fresh chilli
- Flattened Grilled Chicken Salad 600** 7.95 / 11.50
Heritage tomatoes, olive oil, lemon, basil and rocket served with a flattened, grilled chicken breast

FISH + VEG

- Butternut Squash Risotto* (v)** 9.95
Butternut squash risotto topped with shaved Cheddar cheese, rocket and roasted butternut squash
- Whole Seabass** 600** 14.95
Whole de-boned seabass with garlic, thyme and lemon, served with broccoli, baby capers, chilli, garlic and cherry tomatoes
- Beer-Battered Cod & Chips***** 11.95
Beer-battered cod served with minted mushy peas, samphire, beef dripping triple cooked chunky chips, our homemade tartare sauce and a wedge of lemon

600 This icon shows our lighter calorie main dishes that are under 600kcal, based on an average serving size.

Full allergen information available on request. All prices include VAT.
(v) Suitable for vegetarians. *Approximate weight uncooked. ** May contain bones.
*** May contain small traces of alcohol. TABASCO® is a registered trademark.
Dishes do not list every ingredient, please ask for more information.

STEAKS

Our classic cuts come from British breeds of cattle reared across the Pampas in South America. These cuts are all aged for a minimum of 28 days and hand cut on site, so you can have your steak as big as you want it - just ask.

All of our classic cuts are finished in the special Bar + Block way and served with your choice of our house salad or beef dripping triple cooked chunky chips.

All of our 8oz* classic cuts are 600 calories with our house salad.

Classic Cuts

- Rump 8oz* / 10oz*** 11.95 / 13.95
A working cut of the cow, full of flavour and with a firm texture
- Ribeye 8oz* / 10oz*** 15.50 / 17.95
Marbling gives this steak a soft texture and rich flavour
- Sirloin 8oz* / 10oz*** 15.95 / 18.50
Succulent, tender and with a delicate flavour
- Fillet 8oz* / 10oz*** 19.95 / 22.95
The most lean and tender of all the steaks

Speciality Cuts

All served with your choice of our house salad or beef dripping triple cooked chunky chips.

- Spiral Cut Fillet 10oz*** 24.50
A unique dish created by spiral cutting the fillet and marinating it in garlic and parsley for 24 hours for tenderness and flavour
- Churrasco De Chorizo NEW** 22.95
10oz* spiral cut sirloin, marinated in garlic and parsley for 24 hours
- Surf & Turf** 20.95
8oz* sirloin topped with a giant king prawn cooked in garlic butter and samphire
- Tira De Ancho** 25.95
14oz* spiral cut ribeye, marinated in garlic, parsley and chilli, served with chimichurri
- Tomahawk 35oz*** 38.95
35oz* bone-in tomahawk, barbecue marinated, slow cooked then finished over charcoal and served with chimichurri

Our Butcher's Block

Our special cut for the season. As well as our regular cuts, we source a range of unique steaks as they become available. Check out our Butcher's Block and discover something special today.

SAUCES

- Fiery Black Sauce (v)** 1.50
Our signature blend - a tangy, spicy black sauce
- Chimichurri (v)** 1.50
- Posh Ketchup with Parsley, Garlic & Mustard (v)** 1.50
- Trio Of Peppercorn*** 1.50
- Béarnaise* (v)** 1.50

SIDES

- French Fries (v)** 2.95
- Beef Dripping Triple Cooked Chunky Chips** 3.25
- Sweet Potato Fries With Chorizo, Feta & Coriander** 3.50
- Onion Rings (v)** 2.75
- Wild Mushroom & Truffle Dauphinoise (v) NEW** 3.75
- Mac & Cheese Bites (v)** 3.75
- Garlic Spinach (v)** 2.95
- Charred Tandoori Cauliflower (v) NEW** 2.95
- Spicy Beans with Smoked Bacon** 2.95
- Mixed Garlic Mushrooms (v)** 2.95
- Greek Salad (v) NEW** 3.50
- House Salad (v)** 2.95

GRILLS

- Mixed Grill** 19.95
4oz rump steak, smoky pork belly, grilled chicken breast and a giant pork sausage, served with Asian coleslaw, spicy beans with smoked bacon and beef dripping triple cooked chunky chips
- Smoked Paprika Chicken & Chips** 13.50
Half a chicken marinated in smoked paprika and garlic, served with Asian coleslaw, French fries and our posh ketchup with parsley, garlic and mustard
- Lamb Shoulder** 15.50
24hr slow cooked marinated lamb shoulder, finished over charcoal and served with a Greek salad
- Slow Cooked Beef Rib* NEW** 15.95
Slow cooked smoked beef rib served with thyme sautéed potatoes, garlic spinach and a rich Malbec sauce

HANDMADE BURGERS

We hand grind and prepare our beef burgers on-site, each and every day using prime cuts of steak. All of our burgers are served in a brioche style bun with French fries.

- The Mighty Block Burger** 13.50
Our signature beef burger 8oz hand-ground beef patty with cheese sauce, smoked beef brisket, crispy onions, pickled cucumber spears, shredded lettuce, tomato and our fiery black sauce
- Classic 8oz* Beef Burger** 9.95
With shredded lettuce, tomato, red onion and our house sauce
Add Cheddar cheese & dry cured oak smoked streaky bacon 2.00
- Mushroom & Truffle Burger (v) NEW** 10.95
Grilled flat mushroom topped with wild mushroom truffle sauce, crumbly Stilton cheese, lettuce, tomato and red onion
- Tandoori Chicken Burger NEW** 11.95
24 hour tandoori marinated chicken breast, cooked over charcoal then topped with raita, an onion bhaji, lettuce, red onion and tomato

Sunday Best

13.50pp

Available from midday Sunday and for a minimum of two people. First come, first served.

Sliced picanha served with Yorkies, beef dripping roasties, carrots, parsnips, Cheddar topped cauliflower, seasonal greens and a rich gravy

Picanha is a speciality South American cut which comes from the top cap of the rump and is full of flavour.

PUDDINGS

- Triple Chocolate Brownie (v)** 5.95
Served warm with chunks of chocolate throughout and topped with chocolate toffee sauce and vanilla ice cream
- Toffee Apple Cheesecake (v) NEW** 5.50
Cheesecake topped with salted toffee apples, shortcake oat crumble and a warmed chocolate toffee sauce
- Churros Sundaes (v)** 5.95
Churros coated in cinnamon sugar, served with vanilla ice cream, chocolate and honeycomb ice cream, brownie chunks, cream and chocolate toffee sauce
- Churros coated in cinnamon sugar, served with vanilla ice cream, lemon sorbet, lemon curd, cream, lemon drizzle and meringue 5.95
- Sticky Toffee Pudding (v)** 5.95
Served with chocolate and honeycomb ice cream
- Ice Cream (v)** 4.50
Three scoops of either vanilla ice cream, chocolate and honeycomb ice cream or lemon sorbet
- Fruit Salad (v)** 5.95
A mix of strawberries, grapes, apple, melon, mango and pineapple topped with lemon sorbet
- Cheese Block** 5.95
Cheddar, Brie and Stilton served with crackers, onion marmalade, grapes and celery

Our Butcher's Block

As well as our quality classic and speciality steaks, we also source a wide range of unique cuts, each one selected to create a steak special for the season. Fancy trying something a little different?

ASK A MEMBER OF THE TEAM **WHAT'S ON OUR BLOCK TODAY.**

GREAT STEAK GUIDE

To help you pick out your perfect steak and recognise your Rump from your Ribeye; here's a guide to the distinctive taste, texture and character of our classic cuts.

As an extra pointer, we've also dropped in a little suggestion for the side, sauce or wine that we think really makes the cut.

Our classic cuts come from British breeds of cattle reared across the Pampas in South America. These cuts are all aged for a minimum of 28 days and hand cut on site, so you can have your steak as big as you want it – just ask.

Or how about sampling one of our speciality cuts? We have a great selection available sourced from around the globe, from our epic 35oz" Tomahawk to our tender Spiral Cut Fillet.

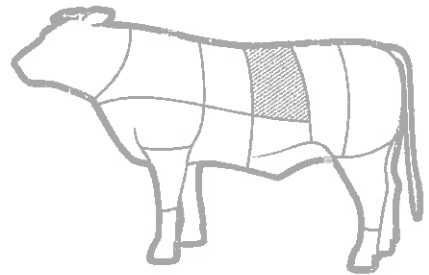
Fillet

TENDER + MILD

The finest cut, located alongside the Sirloin. This area is rarely used by the cattle, so the Fillet remains extremely tender and has a delicately mild flavour. To retain the cut's natural tenderness, we'd suggest serving it medium rare and ideally not cooked past medium well.

Perfect with:

The fresh flavours of our Greek Salad.



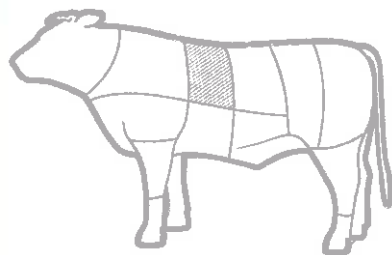
Ribeye

RICH + SUCCULENT

A timeless cut, Ribeye comes, as it suggests, from the cattle's rib area. It has a wonderfully rich flavour and because it contains soft fat marbling, it is beautifully tender. We think Ribeye is best cooked medium rare or more as this allows the fat to melt into the steak, adding to the rich flavour and giving the steak a lovely succulent texture.

Wash it down with:

A glass or two of the Beefsteak Malbec. This vibrant, spicy red perfectly complements a Ribeye's rich flavour.



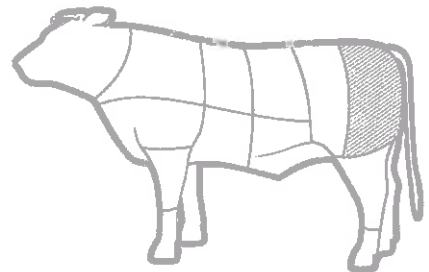
RUMP

Firm + flavourful

As the name suggests, Rump is found towards the rear of the cattle. As a working muscle of the cattle, it has a firmer texture and less fat compared to other steaks, but is without doubt one of the most flavourful cuts. Due to the lack of fat we recommend it be cooked medium rare.

Perfect with:

Our signature Fiery Black Sauce, its spicy kick complements Rump beautifully.



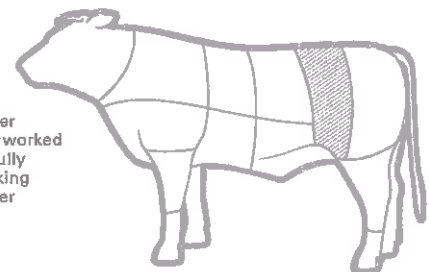
SIRLOIN

Tender + full-bodied

The classic 'Loin' cut, Sirloin is taken from the upper middle of the cattle. The region isn't naturally overworked and has a covering layer of fat, so remains beautifully tender. Sirloin is known to be an 'all-rounder', cooking well from rare through to well done. We do however recommend it be cooked medium so the fat melts through the meat.

Wash it down with:

A glass of Berton Black Label Shiraz. This full flavoured, fruity and spicy red is the perfect accompaniment to Sirloin.







WELCOME TO BAR

oultures
ringing
Soaked
out:

Always on the lookout
for the finest steaks,
we scuba unique cuts as
they become available

6 a special cut come to
in smaller quantities,
so when they're gone,
they're gone!

After asked to bring
is not to professional looking?
We're not to first-class!

