

## GUILDFORD BOROUGH COUNCIL

<b>LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE</b>	
<b>DATE OF HEARING</b>	Thursday, 3 October 2019
<b>SUB-COMMITTEE MEMBERS PRESENT:</b>	Councillor David Goodwin (Chairman) Councillor Graham Eyre Councillor James Steel
<b>OFFICERS PRESENT:</b>	Sophie Butcher, Committee Officer Peter Muir, Licensing Officer Raj Devandran, Litigation Solicitor
<b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>	None
<b>PREMISES:</b>	King's Head, 27 King's Road, Off Stoke Road, Guildford, Surrey, GU1 4JW
<b>TYPE OF APPLICATION:</b>	Application for the variation of a premises licence, number GUPLA0326
<b>DETAILS OF APPLICATION SOUGHT:</b>	The premises is a public house located in a largely residential area of Guildford, with other commercial properties, including public houses, also in the vicinity. The application proposes to extend the opening hours and the hours for the sale of alcohol from 10am to 8am daily including the non-standard timings. There are no proposed changes to activities, conditions or the plan.
<b>APPLICANT:</b>	Fuller, Smith & Turner PLC, Griffin Brewery, Chiswick Lane South, Chiswick, London, Nottingham, NG1 1LS  In attendance: Mr James Anderson, Applicant's Solicitor Mr Felix Faulkner, Trainee Solicitor Mr Daniel Arrow, Manager and DPS
<b>OTHER PERSONS:</b>	Ms Tessa Cockett

# GUILDFORD BOROUGH COUNCIL

## DETAILS OF DECISION TAKEN

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted verbally and in writing. The Sub-Committee was also made aware that the following were relevant:

Guildford Borough Council's Statement of Licensing Policy

- Section 4 – Fundamental Principles
- Section 12.4 – Public Nuisance
- Section 13 – Licensing Conditions

Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

- Paragraphs 2.15 – 2.21 – Public Nuisance
- Paragraphs 9.31 - 9.41 – Hearings
- Paragraphs 9.42 - 9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1-10.66 – Conditions attached to premises licences.

The Sub-Committee received a report from the Licensing Officer who stated that the application was to extend the opening hours and the hours for the sale of alcohol from 10am to 8am daily including the non-standard timings. There were no proposed changes to activities, conditions or the plan. The application sought to:

1. Extend the opening hours of the premises to open daily from 10:00 to 08:00 and
2. Extend the start time for the sale of alcohol on a daily basis from 10:00 to 08:00, and
3. To extend non-standard timings for opening hours and sale of alcohol to commence from 10:00 to 08:00.

The King's Head is a public house located in a largely residential area of Guildford, with other commercial properties, including other public houses, also in the vicinity.

One representation had been received from a local resident on the grounds of the prevention of public nuisance.

The Sub-Committee was reminded that they must consider the application for the grant of a premises licence on its merits. Having regard to the relevant representations received, the Sub-Committee must take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

## GUILDFORD BOROUGH COUNCIL

The Chairman invited the applicant's solicitor to address the Sub-Committee and he made the following points:

- The current manager of the King's Head had been in position since April of this year. It was a Fuller's managed premises and was a popular community pub with a strong local following and was managed well.
- The proposal to open the pub at 8am and sell alcohol from that time was to cater for sporting events such as football and rugby as well as the current Rugby World Cup in Japan. The times of the games for the World Cup were early owing to the event being hosted in Japan.
- The intention of the proposed variation to the opening hours was not to open the pub at 8am on a daily basis to sell alcohol but rather to have the ability to cater for the community when sporting events were held.
- It was confirmed that fifty tickets had been sold for this Saturday's rugby game, England vs Argentina.
- A Temporary Events Notice (TEN) prevented spontaneity as it only permitted 15 events to take place in one year. The pub anticipated to hold potentially a maximum of 50 events in one year, to cater for the early morning sporting events.
- Ms Cockett, a nearby neighbour had some concerns regarding the proposed variation to the hours. He referred the Sub-Committee to page 15 of the agenda which showed a map of the area. Ms Cockett lived the other side of the pub car park and there was a pathway between the property and the pub. He did not believe that the proposed variation in hours would cause an adverse impact upon Ms Cockett and the enjoyment of her property.
- Referring to the Rugby World Cup, he also believed that most people who would come to the pub to watch the games would stay beyond 10am to watch the other games that would be played later. Very few people would leave before 10am, so there was a low risk of noise nuisance between 8:00-10:00am.
- The pub had applied for two TEN's so far and no problems had been experienced to date.
- They anticipated a few cars arriving at 8am but would not be making undue noise with the noise already being generated from the main road and railway too.
- The pub did not plan on opening any windows so there would be no sound escape causing a potential nuisance.
- The manager of the pub had met with Ms Cockett who had allayed her concerns to some degree.
- The manager had quickly acted in response to concerns raised from a neighbour living opposite regarding light pollution coming from the pub and only wished to run a business in harmony with the local community.

The Chairman invited the objector, Ms Cockett to address the Sub-Committee with her concerns and she made the following points:

- Agreed with a lot of what had been said by the applicant's solicitor.
- Her main concern regarding the variation to the hours of operation was that it applied to the licence for the premises rather than the manager. There has of late been a high turnover of managers at the premises and, if the current manager left, the new manager may decide to run the premises differently, such as using the TV outside or playing live music during the new opening hours. She would like any condition imposed to apply to all future managers of the pub.
- In her experience customers tended to arrive in their cars and park in the road rather than use the pub car park.

## GUILDFORD BOROUGH COUNCIL

- One of the windows in the pub directly overlooked Ms Cockett's house and so she was concerned that she would be disturbed by additional car noise and from customers cheering during the games.
- She was concerned about the large seating area outside the pub which could cater for approximately 70 people and had the potential to disturb the residents of the studio flats who might work night shifts.
- The manager had confirmed that the TV screen in the garden would not be used at 8am, however, Ms Cockett was concerned that another manager may put the TV on at this time.
- With reference to the map, she advised that the map seemed to suggest that a number of the properties only had one occupier, whereas in fact a number of them had more than one occupier. It was confirmed by the Licensing Officer that the red markers on the map did not represent the number of people living at each property but rather simply denoted that it was a residential property.
- Ms Cockett confirmed that she would like a condition applied whereby the windows remained closed whilst sports were televised but also appreciated that the pub did not have air conditioning.

The Chairman asked the Licensing Officer to confirm if a condition in relation to closing the window which directly overlooked Ms Cockett's property could be applied.

The Licensing Officer confirmed that live TV was not a licensable activity, therefore a condition could be applied but it would not be enforceable. If the conditions of the licence were not met, or it was believed that the licencing objectives were not being promoted, a review of the premises could be called, then at that point conditions could be applied which would be enforceable.

The applicant's solicitor confirmed that they would be happy to agree to a condition on the window which directly overlooked Ms Cockett's property when there's licensable activities taking place. As it was linked to a licensable activity it therefore became an enforceable condition. The applicant also reiterated that it was not their intention to regularly trade from 8am. It was also confirmed that only the internal TV screens would be used between the hours of 8am – 10am when sporting events were on.

The applicant's solicitor also advised that if the application were granted, they still would not open until approximately 10am or 11am on most days; the variation was simply to allow for greater flexibility if they wanted to open the pub earlier. He also clarified that the beer garden was not included in the plan for the premises licence. The pub's car park does not have gates on it, so other local business owners or commuters were already using it from approximately 5:45 to park their cars while they work. The pub has no issue with this practice and does not intend to prevent others from using their car park, but this was an indication that the car park was already being used early in the morning with minimal if any disturbance to residents.

The Chairman asked Ms Cockett if there were any other conditions that she would like to see applied. Ms Cockett reiterated her concern about the TV screen being used in the garden and the residents of the studio flats at Regal Court being potentially affected by noise generated by the sporting events. The Chairman noted that there were no representations from residents of Regal Court against the application, and asked Ms Cockett why this was the case. She advised that she was unsure, but one potential reason could be because residents thought the application was to allow earlier opening for the duration of the Rugby World Cup only.

## GUILDFORD BOROUGH COUNCIL

The Licensing Officer confirmed again that a condition could only be applied in respect of the outdoor TV if a review of the premises was called. Due to the Live Music Act 2012 music could be played from 8am and applied to unamplified music for less than 500 people. The Sub-Committee noted that the condition offered in respect of closing the window directly opposite Ms Cockett's property was enforceable during the hours of 8am – 10am as it was worded to cover "licensable activities".

The Litigation Solicitor confirmed that any conditions applied had to relate to the objection received which was in relation to the prevention of public nuisance.

The applicant's solicitor confirmed that Fuller's had no intention to play live music. There had been no issues at the premises and it was being managed well. There was no intention to put the TV on in the garden during the proposed extended hours subject of this application. Fullers was a good company and would always ensure the premises was managed to the highest standards.

Having considered the application and the submissions from the applicant as well as those made by other persons, the Sub-Committee;

RESOLVED: That the application to extend the opening hours and the hours for the sale of alcohol from 10am to 8am daily including the non-standard timing by the Premises Licence for the King's Head, 27 Kings Road, Guildford, Surrey, GU1 4JW be granted for the following licensable activities and hours:

1. Extension of opening hours of the premises to open daily from 10:00 to 08:00, and
2. Extension of the start time for the sale of alcohol on a daily basis from 10:00 to 08:00, and
3. Extension of non-standard timings for opening hours and sale of alcohol to commence from 10:00 to 08:00.
4. Between the hours of 8am and 10am all windows adjacent to the car park must be closed when licensable activities are taking place.

## GUILDFORD BOROUGH COUNCIL

### REASON FOR DECISION:

In reaching their decision to grant the application, the Sub-Committee considered both written and oral representations from the applicant and resident.

The Sub-Committee was mindful of the concern that the application had caused to the local resident and was sympathetic to her concerns. On that basis, the Sub-Committee agreed that a condition was applied to ensure that the windows directly overlooking Ms Cockett's property remained closed for hours where licensable activities take place. It was considered that this would minimise the risk of noise escaping the premises and therefore reducing the risk of a public nuisance being caused.

The Sub-Committee accepted the applicant's statement that they were not intending to regularly open or trade from 8am. They also accepted that, by opening the pub earlier for sporting events held in the morning, there was a risk that the noise generated by customers could cause a nuisance to residents in the immediate vicinity. The objector had referred to potential disturbance to residents at Regal Court, however the only references to Regal Court were letters that the applicant had shown to the Sub-Committee in support of the application. The Sub-Committee were satisfied that the risk of a noise nuisance could be mitigated by requiring the windows adjacent to the car park to be closed. The Sub-Committee was satisfied that should a public nuisance be caused that was directly associated with the sale of alcohol from The King's Head, a review of the licence could be called for.

Signature of Chairman: .....

Dated: .....

# GUILDFORD BOROUGH COUNCIL