

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Thursday 21 May 2020
SUB-COMMITTEE MEMBERS PRESENT:	Councillor David Goodwin (Chairman) Councillor James Steel Councillor Catherine Young
OFFICERS PRESENT:	Ms Sophie Butcher (Democratic Services Officer) Mr Peter Muir (Licensing Officer) Mrs Bridget Peplow (Senior Specialist Lawyer)
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None.
PREMISES:	Guildford Charcoal Grill, 15 Park Street, Guildford, Surrey, GU1 4XB
TYPE OF APPLICATION:	Application for the variation of a Premises Licence, number GUPLA0574
DETAILS OF APPLICATION SOUGHT:	The premises is a take away restaurant in the town centre. The application is to vary the authorised times for late night refreshment and the sale of alcohol to extend the hours of operation of the venue.
APPLICANT:	Mr Mutlu Temur (Applicant) Mr Dean Lewis (Director of Frontline Protection) (on behalf of the applicant) Ms Debbie Tumkaya (Licensing Officer of ESI) (on behalf of the applicant) Ms Beiza Tzivelek (Director of ESI) (on behalf of the applicant)
RESPONSIBLE AUTHORITIES:	Inspector Andy Hill (Surrey Police) Mr Mike Smith (Licensing Team Leader, on behalf of Licensing Authority, Guildford Borough Council) Mr Colin Whitear (Licensing Officer, Surrey Police)

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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 sections of the Licensing Policy were relevant:

- Section 4: (Fundamental Principles)
- Section 11: (Licensing Hours)
- Section 12. 2: (Prevention of Crime and Disorder)
- Section 12.3 (Public Safety)
- Section 13 (Licence Conditions)

The following sections of the Guidance issued in April 2018 by the Secretary of State under Section 182 of the Licensing Act 2003 are relevant:

Paragraphs 2.1 – 2.6 – Crime and Disorder

Paragraphs 2.7 – 2.14 – Public Safety

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 to 10.66 – Conditions attached to premises licences

The Sub-Committee received a report from the Licensing Officer explaining that the application was to vary premises licence no: GUPLA0574, Charcoal Grill. The applicant proposed changes to the terminal hours for alcohol, late night refreshment and the premises being open to the public for six days a week with a reduction in hours on a Tuesday. The premises was proposed to be open from 12:00 – 04:00 as opposed to 12:00 – 03:15 with the exception of a Tuesday when it was now proposed to be open from 12:00 – 03:00 and Sundays when it was now proposed to be open from 12:00 – 3:00 as opposed to 12:00 – 01:00.

The premises was located on the edge of the town centre within the vicinity of commercial and residential properties including 33Hz which was a popular nightclub. The licence had already been varied twice to extend the hours of operation as well as the inclusion of the sale of alcohol. A previous licence at the same venue had been revoked in 2013 following two reviews of the premises requested by Surrey Police.

The Sub-Committee noted that two representations had been received from Surrey Police and the Licensing Authority on the grounds of prevention of crime and disorder and public safety. No representations from other persons had been received. The applicant had put forward additional conditions to demonstrate that they were working in accordance with the licensing objectives by ensuring that they would have SIA Security staff in place on three days a week.

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The Chairman invited Ms Debbie Tumkaya, Licensing Officer of ESI to make her representation on behalf of the applicant:

- Mr Temur had taken over the running of the premises Charcoal Grill and was working with local police to ensure that customers would not cause a public nuisance.
- Mr Temur sent all customers away at 3:15 and adhered to the times that the premises were permitted to open. He wanted to serve food to help nullify the effects of alcohol.
- SIA security staff were currently employed until 3.00. They would be employed until closing time if the variation was agreed. • If any incident occurred at the premises, the SIA Security staff had walkie talkies and could contact the police who were located 2-3 minutes away from the premises.
- When fights had occurred outside the premises, the SIA door staff had always been on hand to disperse people and diffuse the situation.
- It was unfair of the Police and Licensing Authority to state that fights had occurred because of Charcoal Grill's premises being open as they had always encouraged customers to move away from the premises as soon as possible.
- The incident logbooks had been updated and would continue to be kept up to date.
- When clubbers come out of the night clubs, they will get a kebab and then go home. If the extension was agreed, the SIA Security staff would be on hand for longer to diffuse situations and ensure that crowds are moved on.

The Sub-Committee noted that Charcoal Grill's incident logbook was not available for inspection following a routine visit by the Licensing Authority in February 2019 but that the applicant had since updated it. The Sub-Committee wanted to know how regularly the incident logbook was checked. The Licensing Officer confirmed that all premises were given a mandatory score based upon how long they had been open for and whether the premises had CCTV installed. Charcoal Grill was inspected every year, but the Licensing Team had not been able to carry out the required inspection this year owing to the Covid-19 pandemic.

- The applicant, Mr Temur confirmed that he was happy for any additional conditions to be applied as the Licensing Authority saw fit.

The Chairman invited the Director of Frontline Protection, Mr Dean Lewis, who would be providing the SIA Security Staff to make any additional comments. He said:

- It was not the case that the number of fights and incidents was due to the Charcoal Grill being open. It was due to the fact that people used the location to pick up taxis to get home after a night out.
- The Sub-Committee could grant a time-limited variation of the premises licence to see if more trouble was caused by the proposed extended hours of operation.
- There had been a notable increase in unsociable behaviour in the Bellfields area of Guildford and it was not therefore always the case that trouble would emanate from premises such as Charcoal Grill which was located on the edge of the town centre.

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The Chairman invited the Licensing Team Leader, Mike Smith to make his submission on behalf of the Licensing Authority. He stated the following:

- The main concern was regarding the additional customers congregating outside of Charcoal Grill if the premises opening hours were to be extended to 04:00.
- The Licensing Authority supported the police's position regarding concerns about the increased potential for crime and disorder as well as public safety. By opening later, the police's work would be increased in trying to manage the increase in public disorder.
- The Licensing Authority had worked hard to attain the Purple Flag Award and wished to retain it.
- The SIA Security staff were only present at Charcoal Grill for three nights a week.

The Chairman invited Inspector, Andy Hill to make his submission on behalf of Surrey Police. He said:

- He was concerned regarding the additional burden the extended opening hours proposed would put upon the police force when policing the borough as a whole.
- At 4am there would be a greater number of drunk people on the streets who would have left the nightclubs at around 3:30am and may congregate at Charcoal Grill. The issue of customers trying to get in as the premises was closing would still continue.
- He appreciated that Charcoal Grill had CCTV installed but the Police would rather not be called to manage public disturbances.

Ms Debbie Tumkaya, Licensing Officer of ESI, on behalf of the applicant, stated the following in response:

- She understood the need for dispersal of drunk customers and reiterated the applicant's willingness to abide by any additional conditions that would effectively manage the situation.
- It was the applicant's view that shutting the premises at 3am, as they did currently was more likely to result in people gathering outside and banging on the doors of Charcoal Grill causing a public disturbance by trying to get in. At 4am, there was a larger window for dispersal of drunk people and managing crowds.

The Sub-Committee queried whether the police undertook a routine inspection of the premises incident logbook. Inspector Andy Hill confirmed that inspections of premises incident logbooks were undertaken as part of the town patrols and licensing visits.

Surrey Police Licensing Officer, Mr Colin Whitear, made the following additional comments:

- Surrey Police undertook joint visits with the Licensing Authority to premises such as Charcoal Grill to ensure that they were adhering to the licensing conditions attached to their licence.
- Charcoal Grill was last visited in February 2019 and a visit was scheduled as soon as practicable following the easing of lockdown from the covid-19 pandemic.

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The Sub-Committee asked Inspector Andy Hill of Surrey Police whether in his opinion, as the applicant had suggested, that eating something such as a takeaway, would alleviate the symptoms of drunkenness. Inspector Andy Hill disagreed and stated that the later closing time of 4am would coincide with the emptying out time of clubs in town. The higher volume of drunk people in Charcoal Grill would lead to a higher incidence of potential public safety issues. SIA Security door staff frequently did not disperse people and just sat outside the premises. The latest incident that occurred outside Charcoal Grill involved up to thirty people.

Director of Frontline Protection, Mr Dean Lewis confirmed that SIA Security door staff should not be outside but did it in Guildford to assist the police. SIA door staff do not have any powers to move people on when they are on a public highway and cannot use force against members of the public.

The Licensing Officer, Mr Peter Muir was invited by the Chairman to sum up, He confirmed that the applicant was willing to accept any conditions that the Sub-Committee felt were appropriate in order for Charcoal Grill to adhere to the licensing objectives. The Sub-Committee should be minded to grant the application unless it was satisfied that additional conditions could not alleviate the concerns raised by both Surrey Police and the Licensing Authority.

The Senior Specialist Lawyer, Bridget Peplow stated that the Sub-Committee needed to make a decision that took account of the representations raised in relation to the potential for crime and disorder and public safety issues caused by the proposed extended opening hours of Charcoal Grill and should consider if additional conditions would help to overcome those concerns. In response to the comment made by the Director of Frontline Protection, Mr Dean Lewis, that a licence could be granted for a short period of time to see whether any additional problems were caused by the proposed extended opening hours, this was not legally possible. Any licence granted would continue indefinitely although it could be subject to review if required.

In reaching their decision to refuse the application for the variation of premises licence number GUPLA0574, the Sub-Committee considered both written and oral representations from the applicant, Licensing Authority and Surrey Police. The applicant had also circulated a letter and a petition to the parties before the hearing, which the sub-committee had taken into consideration.

REASON FOR DECISION:

The Sub-Committee considered that the additional conditions proposed were not sufficient to address the serious concerns raised by the Licensing Authority and Surrey Police with regard to the prevention of crime and disorder and public safety. The applicant had proposed to employ SIA Security staff three days a week to address concerns regarding the extended opening hours of the premises. The licence had already been varied twice to extend the opening hours and the premises had been the subject of a number of incidents which was feared would be exacerbated by Charcoal Grill being permitted to open until 4am.

The extended hours proposed would unfortunately clash with the clubs closing and therefore there would inevitably be much larger groups of drunk people gathering outside of the take-away for food. The potential for an increase in drunken behaviour and crime and disorder would place an unacceptable burden upon Surrey Police's existing limited resources as well as putting in jeopardy Guildford's Purple Flag Award status revered for having a safe night-time economy. The Sub-Committee did not accept that the provision of food to drunken people would help

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alleviate the potential for abusive behaviour.

The Sub-Committee recommended that the premises should also be inspected more than once a year given that the incident logbook was not available for inspection when it was last looked at by the Licensing Authority in February 2019. The Sub-Committee accepted that the incident logbook had since been updated and that the licence holder had undertaken to keep it updated. However, the licence holder needed to demonstrate a consistent approach to meeting the licensing objectives. On that basis, the Sub-Committee agreed that the application to vary premises licence GUPLA0574 was refused. The risks associated with crime and disorder and public safety by permitting the extended opening hours could not be managed by the additional conditions proposed which would not remedy the extra burden put upon police resources and that of the licensing authority.

Signature of Chairman:

Dated: